OFFICE OF INSPECTOR GENERAL
CITY OF ALBUQUERQUE

David T. Harper
Inspector General

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REPORT OF INSPECTION

FILE NO: OIG 18-0001-R **DATE:** 6 June 2018

SUBJECT: Inspection of Albuquerque Rapid Transit Project Procurement

STATUS: Closed

INVESTIGATOR: Peter Pacheco

DAVID T. HARPER, INSPECTOR GENERAL
OFFICE OF THE INSPECTOR GENERAL

DISTRIBUTION:

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Director of Department of Municipal Development	1
City Attorney	1
Director of Department of Planning	1
Director of Department of Technology and Innovation	1
Chief, Albuquerque Police Department	1
Accountability in Government Oversight Committee	1
Region 6, Federal Transit Agency, United States Department of Transportation	1
Office of Inspector General, United States Department of Transportation	1
State Auditor's Office, New Mexico	1
Attorney General's Office, New Mexico	1
United States Attorney's Office, District of New Mexico	1
File	1

Executive Summary

The Office of Inspector General (OIG) for the City of Albuquerque (COA), New Mexico (NM), conducted an inspection of the Albuquerque Rapid Transit (ART) project related procurements to include the construction of the nine-mile ART corridor, mainly on Central Avenue, and the purchase of the electric buses.

The objectives of this inspection were to obtain information and assess whether the City's engagement for the procurement of the ART project exercised best practices, followed professional standards, complied with governing laws, rules, regulations and ethics to ensure impartiality, objectivity and responsible stewardship of the public's funds.

For clarification, the inspection is not an audit and, therefore, did not follow audit standards to include the "Yellow Book" (Generally Accepted Government Auditing Standards – United States Government Accountability Office) or the "Red Book" (International Professional Practices Framework – Institute of Internal Auditors). The OIG and this inspection followed the "Green Book" (Principles and Standards for Offices of Inspector General – Association of Inspectors General).

What's missing? Due to severe resource limitations, this inspection was limited in scope and required more time than idea. The OIG is the smallest department in City government with both the smallest budget and smallest staff at just three individuals with oversight responsibilities of more than twenty departments, about 6,000 employees and nearly a $1 billion budget. Some topics were purposely not addressed due to the resource constraints that might be considered for a follow up review in the future. These include the genesis of the project – why ART? Was the ART project the most efficient use of the public funds for a rapid transit project? Secondly, the City obtained an exemption from the Federal Transit Agency (FTA) on the requirement to conduct an Environmental Impact Study. There was interest by individuals within the City to have that matter included in this effort, but due to resource limitations and upon legal coordination (due to a prior law suit), a decision was made not to include that within the scope of this inspection; if there is new information that wasn't available to the Court, then this topic may be the subject of a future engagement.

The approach to this inspection was to focus on five major areas pertaining to the acquisition of buses and the construction of the ART route:

- Funding: The funding sources for the project
- Quality: The quality issues impacting the buses and batteries
- Buy America Act Compliance
- Americans with Disabilities Act Compliance
- Procurement Integrity: Ethics & Objectivity

There several opportunities for improvement revealed during the course of this inspection. They are summed up in the "Observations" section and "Recommendations" are also offered in a separate section. Some of the most significant problems relate to the funding and accounting used in the project as well as concerns with the Buy America Act Audit and assertions in the audit report. There were also opportunities to improve the way the City approaches quality oversight and finally, some concerns with ethics in relating with City contractors and impartiality in the source selection process.

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Abbreviations Used in This Report

ABQ	Albuquerque
ADA	Americans with Disabilities Act
ADAAC	ADA Advisory Council
AHSC	Ad Hoc Selection Committee
AIG	Association of Inspectors General
APD	Albuquerque Police Department
ART	Albuquerque Rapid Transit
AVTA	Antelope Valley Transit Authority
BAA	Buy America Act
BAFO	Best and Final Offer
BRT	Bus Rapid Transit
BSC	Bradbury Stamm Construction
BYD	Build Your Dream
CAO	Chief Administration Officer
CFO	Chief Financial Officer
CE	Categorical Exclusion
CFR	Code of Federal Regulations
CIG	Capital Investment Grant
CIGIE	Council of Inspectors General on Integrity and Efficiency
CIP	Capital Improvement Project
CMAR	Construction Manager at Risk
CMAQ	Congestion Mitigation and Air Quality Improvement
COA	City of Albuquerque
CPO	City Purchasing Office
COO	Chief Operations Officer
CTS	Contract Tracking System
DRTD	Denver Regional Transportation District
DFAS	Department of Finance and Administration Services
DMD	Department of Municipal Development
DOT	Department of Transportation
DRU	Dixon Resources Unlimited
DTF	Daytona Transit Facility
FTA	Federal Transit Agency
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GASB	Government Accounting Standards Board
GI	Global Innovations, U.S.A.
GO	General Obligation Bond
GRT	Gross Receipts Tax
HAWK	High-intensity Activated Crosswalk
IG	Inspector General
IRS	Internal Revenue Service
LONP	Letter of No-Prejudice
NMCB	New Mexico Commission for the Blind
MRCOG	Mid-Region Council of Governments
OCC	Office of the City Clerk
OEM	Original Equipment Manufacturer
OIG	Office of Inspector General

PDBAA	Post-Delivery Buy America Act Audit
PD	Project Development
PO	Procurement Officer
PROWAG	Public Right-of-Way Accessibility Guidelines
QC	Quality Control
RFP	Request for Proposals
STP	Surface Transportation Program
TD	Transit Department (City of Albuquerque)
TIP	Transportation Improvement Program

Introduction:

The purpose of this report is to document the results of an inspection conducted by the City of Albuquerque (COA) Office of the Inspector General (OIG), over an approximate five-month period, of the City's Albuquerque Rapid Transit (ART) project. The objectives of the inspection were to obtain information and assess whether the City's engagement for the procurement of the ART project exercised best practices, followed professional standards, complied with governing laws, rules and regulations, and ensured that ethics and objectivity were priorities ensuring responsible stewardship of the public's funds. This entailed examining the procurement processes to include selection of contractors, funding of contracts, quality related issues with the route construction and manufacturing of buses, Buy America Act (BAA) compliance, Americans with Disabilities Act (ADA) compliance and, finally, to address concerns regarding impartiality in source selection and best practices related to ethical standards. The inspection did not probe the limited range of the batteries, as this has been well established. To be clear, the purpose of the inspection was only to ensure there was integrity and objectivity in the process and to bring transparency to some of the major issues and concerns that were presented – to include those of the citizens and taxpayers.

The inspection required a longer than ideal time period due to resource constraints. Unfortunately, the OIG is significantly understaffed and, additionally, experienced a temporary reduction of 33% of staff during a significant period of this inspection.

What is an inspection? The Federal Council of the Inspectors General on Integrity and Efficiency (CIGIE) states that "the term 'inspection' includes evaluations, inquiries, and similar types of reviews that do not constitute an audit or a criminal investigation." [1] While the City's Inspector General Ordinance doesn't define an inspection, it does state that the OIG Inspections shall conform to the professional standards Association of Inspectors General (AIG). [2] Unfortunately, while the AIG doesn't specifically define and distinguish an "inspection," from other activities of an OIG, it does include "inspections" within the same "Quality Standards" for "Inspections, Evaluations, and Reviews."

The report provides information that should be helpful to the City's leaders, including the Mayor and City Councilors, as they make future decisions for the City that are in the best interest of the public. The observations, recommendations and conclusions may assist in considering what actions are needed to ensure mitigating remedies to the current project and to consider appropriate changes that should be made to the acquisition rules and policies for future procurement actions, to strengthen integrity and reduce unnecessary expenditures. Lessons learned are applicable to contracts for capital improvement, services, supplies, equipment or commodities, and to contract administration, which includes effective quality assurance processes to protect the investment of the public's funds.

The inspection involved several actions to include a review of relevant documentation and interviews of individuals involved in various aspects of the ART project. The inspection also involved a visit to the assembly facility of the bus contractor in Lancaster, CA. The inspection also included examining contracts and funding sources. City officials and employees within

[1] Council of the Inspectors General on Integrity Quality Standards for Inspection and Evaluation, January 2012, p.1
[2] Article 17, Section 2-17-7, para (A).

various departments were interviewed, as well as individuals employed by City contractors involved in the project.

Background:

The ART project consisted of two main components – the construction of the bus route with dedicated bus lanes and elevated station platforms as well as the acquisition of 20 electric articulated buses. The former Chief Administration Officer (CAO), Robert J. Perry notified Bradbury Stamm Construction (BSC) on 1 December 2015 that the construction contract was awarded to them. The bus contract was approved by the former CAO on 22 April 2016. The project essentially entailed establishing an electric bus service along the nine-mile route of Central Avenue, which is also where much of the historic Route 66 is located as it runs through the City of Albuquerque.

City leaders sought partial federal funding for the project and at the time that this review was initiated, City leaders indicated that the Federal Transit Administration (FTA), Department of Transportation (DOT), had indicated that $75 million would be provided to the City to assist with the costs. According to City officials, the FTA would provide the $75 million in two federal fiscal years (FY), with $50 million to be provided in FY18 and the remaining $25 million in FY19. The former City Chief Operating Officer (COO) had conveyed to a radio talk show host that funds from "bonds" for other City projects was used to pay the project contractors.

The current Mayor and City officials have conveyed to the local media that there were quality and ADA related concerns and issues with the construction of the project and the buses that have been delivered to the City.

Scope and Methodology

The initial focus of the OIG review was on funding for the ART project. This topic included addressing the following aspects of the broad funding issue:

- Current status of FTA grant funds
- Status of payment to ART contractors and sub-contractors
- Source of funds used to compensate each of the contractors and sub-contractors
- Applicable laws, ordinances, regulations and policies that pertain to the source, use and method of compensation to the contractors and sub-contractors

Scope:

The scope of the inspection was initially contemplated to only focus on the funding sources for the project, but when the quality and ADA issues were made public, the decision was made to expand the scope to include a review of the quality issues, the City's processes and policies to ensure quality and the ADA concerns. The decision was also made to expand the scope to include compliance with the BAA since this was a requirement for federal funding. Finally, in the aftermath of the "TASER" investigation by the OIG in 2014 and 2015[3] and the subsequent

[3] City of Albuquerque Office of Inspector General Report of Investigation, 11 May 2015

review[4] by this office of the process that selected TASER as the contractor for the Albuquerque Police Department (APD) on-body camera in 2017, it was decided to include a limited examination of practices and processes to ensure integrity and objectivity – that is, to ensure that all individuals involved in the "ART Project" took extraordinary steps to avoid – in fact and appearance – any violations of possible ethical guidelines or perceptions of possible biases or favoritism in the source selection process.

Key Points:

- Examination of the funding sources and applicable legislation and accounting standards
- Quality assurance and inspection processes
- Compliance with ADA and the engagement of the ADA community during the planning stages of the project
- Buy America Act Audit and Compliance
- Examination of ethics and efforts to avoid actual – or the appearance of – biases, favoritism and possible conflicts and, finally, to ensure objectivity and full and open competition in the acquisition process

Methodology:

The methodology involved reviewing governing statutes, ordinances, regulations and policies, as well as relevant documents to include contracts, contract associated documents, funding related documents, the Buy America Act audit, and quality control requirements and associated documents. Additionally, the inspection included examining Buy America Act compliance, American's with Disabilities Act compliance, various policies and rules regarding full and open competition, ethics and integrity in the procurement processes. The methodology also involved conducting meetings and interviews of various individuals involved in procurement, funding and contract administration to include the inspection and quality control of the project. These people included City officials and employees as well as individuals involved in various aspects of the execution of the project such as contractor officials and employees and the Buy America auditor.

FUNDING:

Federal Funding:

Chapter 5, § 5-5-9 Procurement Requirements, of the City Code of Ordinances, states:

> (D) Federal funding. When a procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of this article, compliance with federal law or regulations shall be in compliance with this article.

The Inspection of the ART project considered requirements of the Federal Acquisition Regulations and other federal law as required and is more specifically addressed in this report when applicable.

[4] City of Albuquerque Office of Inspector General Report of Review, 24 February 2017

ART Funding Sources

The ART Project is estimated to cost over $133 million dollars upon its completion. The ART Projects anticipated funding sources are coming from Federal, City and State funds. Approximately 80 percent of the funding is anticipated to come from federal monies with the remaining 20 percent from local and state monies.

Funding Sources for the Art Project:

- Federal Funding
  - Federal Transit Authority (FTA) Small Starts Program
  - Other Federal Funds
- City of Albuquerque Funding:
  - Gross Receipts Tax (GRT) Revenue Bond Proceeds
  - Existing General Obligation (GO) Bond Proceeds
  - Department of Municipal Development (DMD) Transportation Infrastructure Tax
  - Broadband (Existing GO Bond Proceeds)
- State Legislation
  - State Grant C3142035

ART - FUNDING SUMMARY (ANTICIPATED)

Funding	Federal	Local	Total
FTA Small Starts Grant Agreement (SSGA)	$ 75,036,027		$ 75,036,027
FTA Non-Small Starts	$ 31,325,033		$ 31,325,033
City GRT Revenue Bonds / Infrastructure Program		$ 27,310,590	$ 27,310,590
TOTAL ANTICIPATED FUNDING			**$ 133,671,650**
*Data from Transit Department and Department of Municipal Development			

The above table reflects data regarding anticipated funds for the ART project.

FEDERAL FUNDING

ART - AVAILABLE FUNDING DETAIL
FTA Small Starts Grant Agreeement (SSGA)

Anticipated Funding	Federal
FTA Small Starts FY 17	$ 50,000,000
FTA Small Starts FY 18	$ 25,036,027
SUBTOTAL AVAILABLE FEDERAL FUNDING (SMALL STARTS)	**$ 75,036,027**
*Data from Transit Department and Department of Municipal Development	

The above table reflects data regarding anticipated federal funds for the ART project.

Small Starts Program Funding:

The City was anticipating having the majority of funding for the ART Project from federal funding. The City applied for $75,036,027 from the FTA Small Starts program[5] with $31,325,033 coming from several other FTA Non-Small Start grants.

The ART Project federal grant process began on December, 2013 when the City requested entry into the Project Development (PD) phase under the FTA's Small Starts Program. In order for the City to get approval for a construction grant agreement it would have to complete all the requirements of the Project Development stage in order to be considered for a Small Starts Grant Agreement.

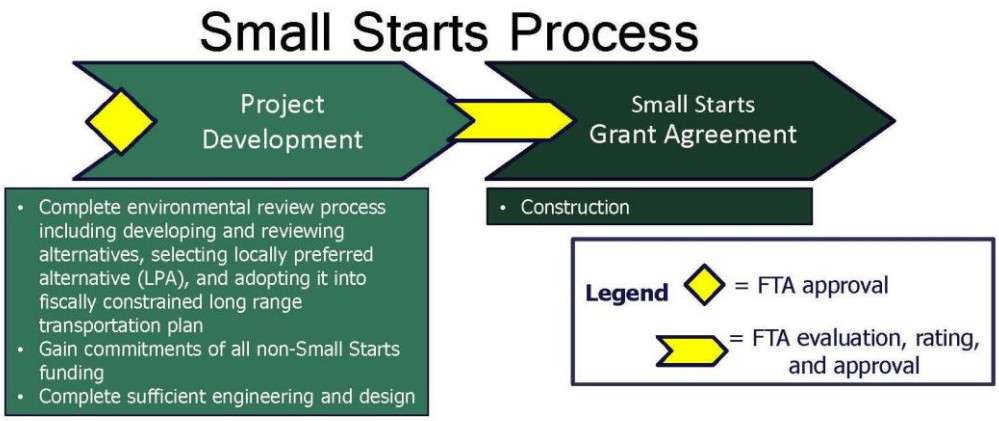


Chart Source: https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Project_Development_Process_MAP-21_CIG_Program.pdf

The FTA determined that the information provided by the City was sufficient to enter the PD phase. The request was approved by the FTA in February 2014.[6] By receiving approval, the City had pre-award authority to incur costs for PD activities prior to grant approval. Per the requirements of the Moving Ahead for Progress in the 21st Century Act (MAP-21), the following activities would have to be completed by the City:

- Select a locally preferred alternative
- Have the locally preferred alternative adopted into the fiscally constrained long range transportation plan;
- Complete the environmental review process; and
- Complete activities required to develop sufficient information for evaluation and rating under the Section 5309 criteria.

In July, 2015, Mayor Richard Berry presented the City of Albuquerque's grant submission for the FTA's Small Starts Capital Grant to fund the ART Project.[7]

[5] Small Starts Criteria: Total Project cost is less than $300 million and total Small Starts funding sought is less than $100 million. Fixed guide BRT System. Corridor Based BRT system. https://www.transit.dot.gov/funding/grant-programs/capital-investments/about-program

[6] FTA approval letter to City date stamped February 28, 2014

[7] Mayor's letter to FTA dated July 24, 2015

The FTA completed review of the City's request for approval in a Categorical Exclusion (CE)[8] for the ART project and in August, 2015, determined that the proposed ART Project met the criteria for CE in accordance with 23 CFR Part 771.118(d).

DMD requested Letters of No Prejudice (LONP)[9] on three occasions from the FTA. A LONP, if approved by the FTA, gives the City approval to incur cost for the project in the request, amount specified in LONP, and retain eligibility of those expenditures for future FTA grant assistance. All federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance.

DMD and FTA provided the OIG with three FTA Letters of No Prejudice that the City received.

- December 15, 2015: ART Corridor Project Request for a Letter of No Prejudice for Vehicle Procurement. $20,000,000
- July 18, 2016: ART Corridor Project Request for a Letter of No Prejudice to Commence Construction Activities. $59,000,000
- July 26, 2017: ART Corridor Project Request for a Letter of No Prejudice to Commence Construction Activities. $32,978,964

NOTE: All three Letters of No Prejudice contain the following language; "The authority to incur cost provided in this letter does not constitute an FTA commitment that future dollars will be approved for the project."

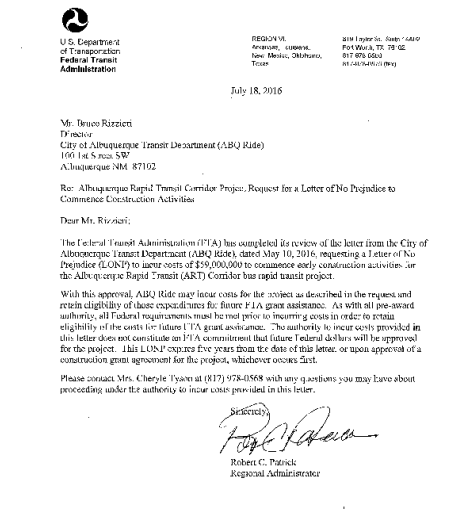
The 26 July 2017 Letter of No Prejudice also contained the following language (in bold):

"Please note that the President's Budget for FY 2018 proposes no funding for new projects, and thus ABQ Ride acknowledges that it is undertaking additional work at its own risk which may not receive Capital Investment Grants funding."

(See next page for the three images of the LONPs)

[8] Categorical Exclusion is defined as a category of actions which do not individually or cumulatively have a significant effect on the human environment… and … for which, therefore, neither an environmental assessment nor an environmental impact statement is required (40 CFR Part 1508)
https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/categorical-exclusion

[9] A letter of No Prejudice (LONP) permits a Project Sponsor (City of Albuquerque) to incur costs on a project using non-federal resources with the understanding that the costs incurred after the LONP may be reimbursable as eligible expenses or may be eligible for credit toward local matching share if the project is approved for federal funding a later date.
https://www.transit.dot.gov/regulations-and-guidance/letter-no-prejudice-review-op56



U.S. Department of Transportation
Federal Transit Administration

REGION VI
Arkansas, Louisiana, New Mexico, Oklahoma, Texas

819 Taylor St., Room 14A19
Fort Worth, TX 76102
817 978 0550
817-978-0575 (fax)

July 18, 2016

Mr. Bruce Rizzieri
Director
City of Albuquerque Transit Department (ABQ Ride)
100 1st Street SW
Albuquerque NM 87102

Re: Albuquerque Rapid Transit Corridor Project, Request for a Letter of No Prejudice to Commence Construction Activities

Dear Mr. Rizzieri:

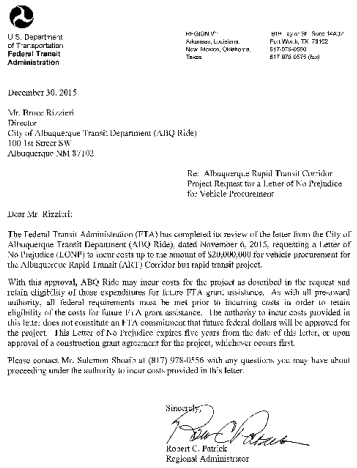
The Federal Transit Administration (FTA) has completed its review of the letter from the City of Albuquerque Transit Department (ABQ Ride), dated May 10, 2016, requesting a Letter of No Prejudice (LONP) to incur costs of $59,000,000 to commence early construction activities for the Albuquerque Rapid Transit (ART) Corridor bus rapid transit project.

With this approval, ABQ Ride may incur costs for the project as described in the request and retain eligibility of those expenditures for future FTA grant assistance. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. The authority to incur costs provided in this letter does not constitute an FTA commitment that future Federal dollars will be approved for the project. This LONP expires five years from the date of this letter, or upon approval of a construction grant agreement for the project, whichever occurs first.

Please contact Mrs. Cheryle Tyson at (817) 978-0568 with any questions you may have about proceeding under the authority to incur costs provided in this letter.

Sincerely,

Robert C. Patrick
Regional Administrator



U.S. Department of Transportation
Federal Transit Administration

REGION VI
Arkansas, Louisiana, New Mexico, Oklahoma, Texas

819 Taylor St., Room 14A19
Fort Worth, TX 76102
817 978 0550
817 978 0575 (fax)

December 30, 2015

Mr. Bruce Rizzieri
Director
City of Albuquerque Transit Department (ABQ Ride)
100 1st Street SW
Albuquerque NM 87102

Re: Albuquerque Rapid Transit Corridor
Project Request for a Letter of No Prejudice
for Vehicle Procurement

Dear Mr. Rizzieri:

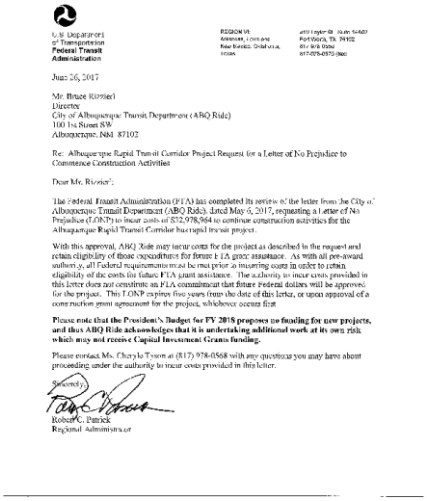
The Federal Transit Administration (FTA) has completed its review of the letter from the City of Albuquerque Transit Department (ABQ Ride), dated November 6, 2015, requesting a Letter of No Prejudice (LONP) to incur costs up to the amount of $20,000,000 for vehicle procurement for the Albuquerque Rapid Transit (ART) Corridor bus rapid transit project.

With this approval, ABQ Ride may incur costs for the project as described in the request and retain eligibility of those expenditures for future FTA grant assistance. As with all pre-award authority, all federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. The authority to incur costs provided in this letter does not constitute an FTA commitment that future federal dollars will be approved for the project. This Letter of No Prejudice expires five years from the date of this letter, or upon approval of a construction grant agreement for the project, whichever occurs first.

Please contact Mr. Salomon Shuaib at (817) 978-0556 with any questions you may have about proceeding under the authority to incur costs provided in this letter.

Sincerely,

Robert C. Patrick
Regional Administrator



U.S. Department of Transportation
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REGION VI
Arkansas, Louisiana, New Mexico, Oklahoma, Texas

819 Taylor St., Room 14A19
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June 26, 2017

Mr. Bruce Rizzieri
Director
City of Albuquerque Transit Department (ABQ Ride)
100 1st Street SW
Albuquerque, NM 87102

Re: Albuquerque Rapid Transit Corridor Project Request for a Letter of No Prejudice to Commence Construction Activities

Dear Mr. Rizzieri:

The Federal Transit Administration (FTA) has completed its review of the letter from the City of Albuquerque Transit Department (ABQ Ride), dated May 6, 2017, requesting a Letter of No Prejudice (LONP) to incur costs of $52,978,964 to continue construction activities for the Albuquerque Rapid Transit Corridor bus rapid transit project.

With this approval, ABQ Ride may incur costs for the project as described in the request and retain eligibility of those expenditures for future FTA grant assistance. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. The authority to incur costs provided in this Letter does not constitute an FTA commitment that future Federal dollars will be approved for the project. This LONP expires five years from the date of this letter, or upon approval of a construction grant agreement for the project, whichever occurs first.

Please note that the President's Budget for FY 2018 proposes no funding for new projects, and thus ABQ Ride acknowledges that it is undertaking additional work at its own risk which may not receive Capital Investment Grants funding.

Please contact Ms. Cheryle Tyson at (817) 978-0568 with any questions you may have about proceeding under the authority to incur costs provided in this letter.

Sincerely,

Robert C. Patrick
Regional Administrator

FTA Correspondence

The OIG contacted the FTA regarding the status of the federal funding. In an email response dated 1 March 2018, Gail Lyssy, Deputy Regional Administrator for the FTA, Region 6 replied with the following statement:

> Status of approval for the CIG grant request – The ART project is in the Small Starts Project Development phase of the federal Transit Administration's Capital Investment Grants (CIG) program and is still undergoing internal review. The FY17 appropriations provided $50 million in CIG funding; the project is seeking an additional $25.03 million in CIG funding. The President's Budget for FY 2018 proposed to limit funding for the CIG program to projects with existing construction grant agreements only; however, a final budget for FY 2018 has not yet been enacted by congress.

Non-Small Start Funding:

In addition to applying for the FTA Small Starts grant, the City is working with the Mid-Region Council of Governments (MRCOG) and the Metropolitan Planning Organization for the

Albuquerque urban area to obtain other federal funds within the Transportation Improvement Program (TIP).[10]

- Urbanized Area Formula Funding Program – 5307
- Capital Investments Grants – 5309
- Bus & Bus Facilities Infrastructure Investment Program – 5339
- Congestion Mitigation and Air Quality Improvement Program (CMAQ)
- Surface Transportation Program (STP)

FTA Non-Small Starts				
Federal Project #	**FTA Funding Type**	**Purpose**		**Federal**
NM 03 0025	5309	Pre-Design		$ 430,539
NM 03 0025	5309	Pre-Design		$ 3,432,006
NM 95 X024	CMAQ	Design		$ 5,118,511
NM 90 X131	5307	Design		$ 1,436,277
Future SSGA Supergrant #	STPU	Construction		$ 3,500,000
Future SSGA Supergrant #	5307	Construction		$ 500,000
Future SSGA Supergrant #	STPU	Construction		$ 3,650,000
Future SSGA Supergrant #	5307	Construction		$ 1,000,000
Future SSGA Supergrant #	5307	Construction		$ 5,000,000
NM 90 X134	5307	Buses		$ 6,739,000
Future SSGA Supergrant #	5339	Buses		$ 518,700
SUBTOTAL AVAILABLE FEDERAL FUNDING (NON SMALL STARTS)				**$ 31,325,033**

The above table reflects funding associated with the ART project and was obtained from the City Transit Department.

NOTE: According to Transit's Fiscal Manager, Chris Payton, the FTA stated that because the ART Project is a major capital project with the Small Starts Grant Agreement being the primary source of funding, the FTA wanted the Non-Small Start grants grouped with the Small Starts Grant Agreement to form a Super Grant.

As of 2 May 2018, Transit's Fiscal Manager stated that the City has received $9,692,397 in FTA Non-Small Starts federal funding for the ART Project. The anticipated FTA federal funds remaining is $96,668,663.

City Council Legislation for ART Project

The City Council also had to approve several resolutions in order to proceed in requesting federal funding for the ART project. Review of the City's Legistar's website provided information on the following resolutions that had been approved by City Council. (**Note**: The search may not have found all legislation related to the ART Project.)

[10] Information on Non-Small Funding received from Transit and DMD

R-15-209: June 25, 2015 – Approving and authorizing the filing of a grant application for the Central Avenue Rapid Transit Project with the FTA of the U.S. Department of Transportation and providing for an appropriation to the Transit Department.

- $5,118,511 – Congestive Mitigation and Air Quality (CMAQ) funds from the U.S. Department of Transportation.
- $872,256 – City Transit Capital Implementation Program Fund 305 for the local match.

R-15-2015: June 25, 2015 - Approving and authorizing the filing of a grant application for the Central Avenue Rapid Transit Project with the FTA of the U.S. Department of Transportation and providing for an appropriation to the Transit Department.

- $1,436,277 – 5307 Large Urban funds from the FTA
- $359,070 – City Capital Implementation Program Fund 305 for the local match.

R-16-24: April 1, 2016 – Approving and authorizing the funding of a Section 5309 Small Starts Grant with the FTA of the U.S Department of Transportation and providing for an appropriation to the Transit Department.

- $69,023,577 – 5309 Small Starts fund from the FTA
- $17,255,895 – City Capital Implementation Program Fund 305 and Transportation Infrastructure Tax Fund 341 for the local match

R-16-26: March 21, 2016 – Approving and authorizing the filing of a grant application for revenue vehicle purchase with the FTA of the U.S. Department of Transportation and providing for an appropriation of the Transit Department.

- $6,739,000 – 5307 Large Urban funds from FTA
- $1,189,236 – City Capital Implementation Program fund 305 for the local match.

City of Albuquerque Funding:

The following table and subsequent bullets pertain to the five local funding sources totaling $27,310,590[11], which have been committed for the ART Projects. The data was obtained from the City Transit Department and City Council.

LOCAL FUNDING BREAKDOWN DETAIL				
Funding Type				**Local**
GRT Revenue Bonds				$ 13,000,000
Tranportation Infrastructure				$ 6,916,030
City of Albuquerque GO Bonds				$ 6,314,936
Broadband				$ 979,624
State Legislation				$ 100,000
SUBTOTAL AVAILABLE LOCAL FUNDING				**$27,310,590**

- GRT Revenue Bond Proceeds: In May 2015, the City Council approved the issuance of $49.1 million in GRT Revenue Bonds which includes $13 million for the ART Project. (City Council Resolution R-15-185)

[11] Information received from Transit

- DMD's Transportation Infrastructure Tax is funded through the City's gross receipt tax. A quarter cent is allocated towards the Transportation Infrastructure Tax fund. According to Transit, $6,916,030 was programmed for the ART Project.
- City of Albuquerque existing GO Bonds: The TIP identifies annual plans for purchases to support Transit operations. The funds represent the matching amount needed for the Non-Small Start Grant Agreement funding. The existing GO bond funds were included in the TIP annual plan in line with the Capital Program.
- Existing GO Bond Proceeds: Broadband: Department of Technology and Innovation allocated Broadband related GO Bond proceeds to broadband infrastructure along with systems elements of the ART Project.
- State Allocation: The City was reimbursed for landscaping medians on Central Avenue from State Grant C3142035 Central/San Pedro landscaping.

ART Project Expenses

The ART project has three contracts with the following vendors to perform different tasks related to the ART Projects.

- Architectural Engineering (A&E) Services
    - InfraConsult, LLC
    - HDR Engineering, Inc.
- Construction Manager at Risk
    - BSC
- Electric Bus Manufacturer
    - BYD Motors Inc.

InfraConsult, LLC (InfraConsult) was originally awarded A&E Services Agreement, P6319.91-Central Avenue Bus Rapid Transit Project – Alternative Analysis in April 20, 2012. On February 10, 2014, HDR Engineering, Inc. (HDR) sent a memo to the City stating they had acquired 100% of the ownership interests of InfraConsult as of July 1, 2012. From May 2012 thru August 2013 nine payments were made to InfraConsult, LLC totaling $973,549.

On April 4, 2014 the A&E Service Agreements, First Supplement Agreement was signed with HDR now designated as the A&E Service Engineers for the ART project. HDR has been paid $21,953,132 as of March 2018.

BSC was awarded the contract as the Construction Manager at Risk (CMAR) for the ART Project in December 17, 2015. As CMAR, BSC was required to manage all aspects related to the ART project to include subcontractors. As of March, 2018, BSC has been paid $86,864,836.

Build Your Dream Motor Inc. (BYD) was awarded the contract to manufacture the electric buses for the ART Project. The contract amount is for $22,921,137.

The OIG reviewed paper documents and electronic documents from various City department for the vendors involved in the ART Project.

InfraConsult, LLC

OIG reviewed electronic documents from the payment requests made to the City by InfraConsult. Nine payments were made before HDR signed the first supplement agreement.

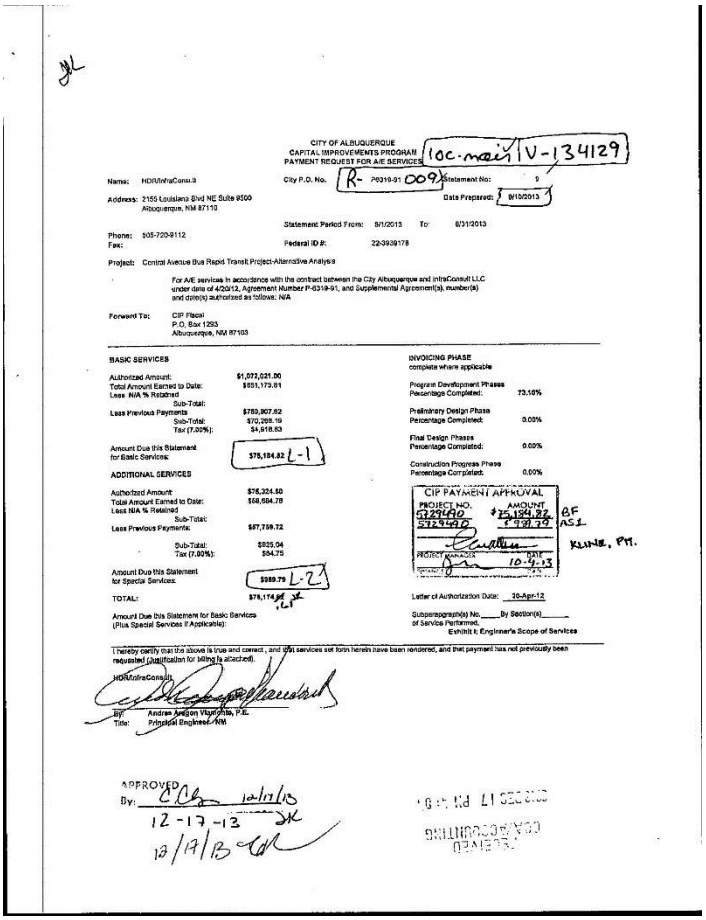
The payment requests were signed by InfraConsult's Principal Engineer and approved by the City's project manager and DMD's, Capital Improvement Project (CIP) Fiscal manager. The payment request documents contained the contract authorized amount, total amount paid to date and amount due this payment request. Percentage completion of different phases of the project and summary of work completed during the request period were also stated. Electronic accounts payable data was reviewed for invoice information and payments made by the City.

Engineering Services: InfraConsult, LLC
Central Avenue Rapid Transit Project-Alternative Analysis
Project No. 6319.91

Payment	Estimate From	Invoice Date	Amount	Date Paid
1	5/1/12 thru 6/25/12	7/10/2012	$ 136,284.28	10/9/2012
2	7/1/12 thru 7/31/12	8/6/2012	$ 73,573.59	11/26/2012
3	8/1/12 thru 8/31/12	9/10/2012	$ 43,290.25	12/20/2012
4	9/1/12 thru 10/31/12	11/10/2012	$ 107,302.28	1/14/2013
5	11/1/12 thru 12/31/12	1/29/2013	$ 111,734.03	3/25/2013
6	1/1/13 thru 2/28/13	3/10/2013	$ 123,400.15	5/14/2013
7	3/1/13 thru 3/31/13	4/10/2013	$ 60,922.33	7/30/2013
8	4/1/13 thru 5/31/13	6/10/2013	$ 240,867.64	9/24/2013
9	8/1/13 thru 8/31/13	9/10/2013	$ 76,174.61	12/19/2013
			$ 973,549.16	

Payments to InfraConsult, LLC:

The above table reflects funds paid to InfraConsult during the period of 2012 to 2013 for architectural and engineering services in support of the ART project, but reimbursement for these expenditures were not included in the grant request. InfraConsult was purchased by HDR. The table was created by OIG using data from the City's PeopleSoft database.



CITY OF ALBUQUERQUE
CAPITAL IMPROVEMENTS PROGRAM
PAYMENT REQUEST FOR A/E SERVICES

Name: HDR/InfraConsult
Address: 2155 Louisiana Blvd NE Suite 9500
Albuquerque, NM 87110
Phone: 505-720-9112
Fax:

City P.O. No. R- P6319-91 009 Statement No: 9
Date Prepared: 9/10/2013
Statement Period From: 8/1/2013 To: 8/31/2013
Federal ID #: 22-3939178

Project: Central Avenue Bus Rapid Transit Project-Alternative Analysis

For A/E services in accordance with the contract between the City Albuquerque and InfraConsult LLC under date of 4/20/12, Agreement Number P-6319-91, and Supplemental Agreement(s), number(s) and date(s) authorized as follows: N/A

Forward To: CIP Fiscal
P.O. Box 1293
Albuquerque, NM 87103

BASIC SERVICES
Authorized Amount: $1,072,021.00
Total Amount Earned to Date: $851,173.81
Less N/A % Retained
Sub-Total:
Less Previous Payments $760,907.62
Sub-Total: $70,266.19
Tax (7.00%): $4,918.53
Amount Due this Statement for Basic Services: $75,184.72 L-1

ADDITIONAL SERVICES
Authorized Amount: $76,324.50
Total Amount Earned to Date: $68,584.78
Less N/A % Retained
Sub-Total:
Less Previous Payments: $67,759.72
Sub-Total: $825.04
Tax (7.00%): $64.75
Amount Due this Statement for Special Services: $889.79 L-2
TOTAL: $76,174.61
Amount Due this Statement for Basic Services (Plus Special Services if Applicable):

INVOICING PHASE
complete where applicable
Program Development Phases
Percentage Completed: 73.16%
Preliminary Design Phase
Percentage Completed: 0.00%
Final Design Phase
Percentage Completed: 0.00%
Construction Progress Phase
Percentage Completed: 0.00%

CIP PAYMENT APPROVAL
PROJECT NO. 6319.91 AMOUNT $75,184.72
PROJECT MANAGER DATE 10-9-13

Letter of Authorization Date: 20-Apr-12
Subparagraph(s) No. ____ By Section(s) ____ of Service Performed.
Exhibit I; Engineer's Scope of Services

I hereby certify that the above is true and correct, and that services set forth herein have been rendered, and that payment has not previously been requested (Justification for billing is attached).
HDR/InfraConsult
By: Andrew Aaron Vigil, P.E.
Title: Principal Engineer - NM

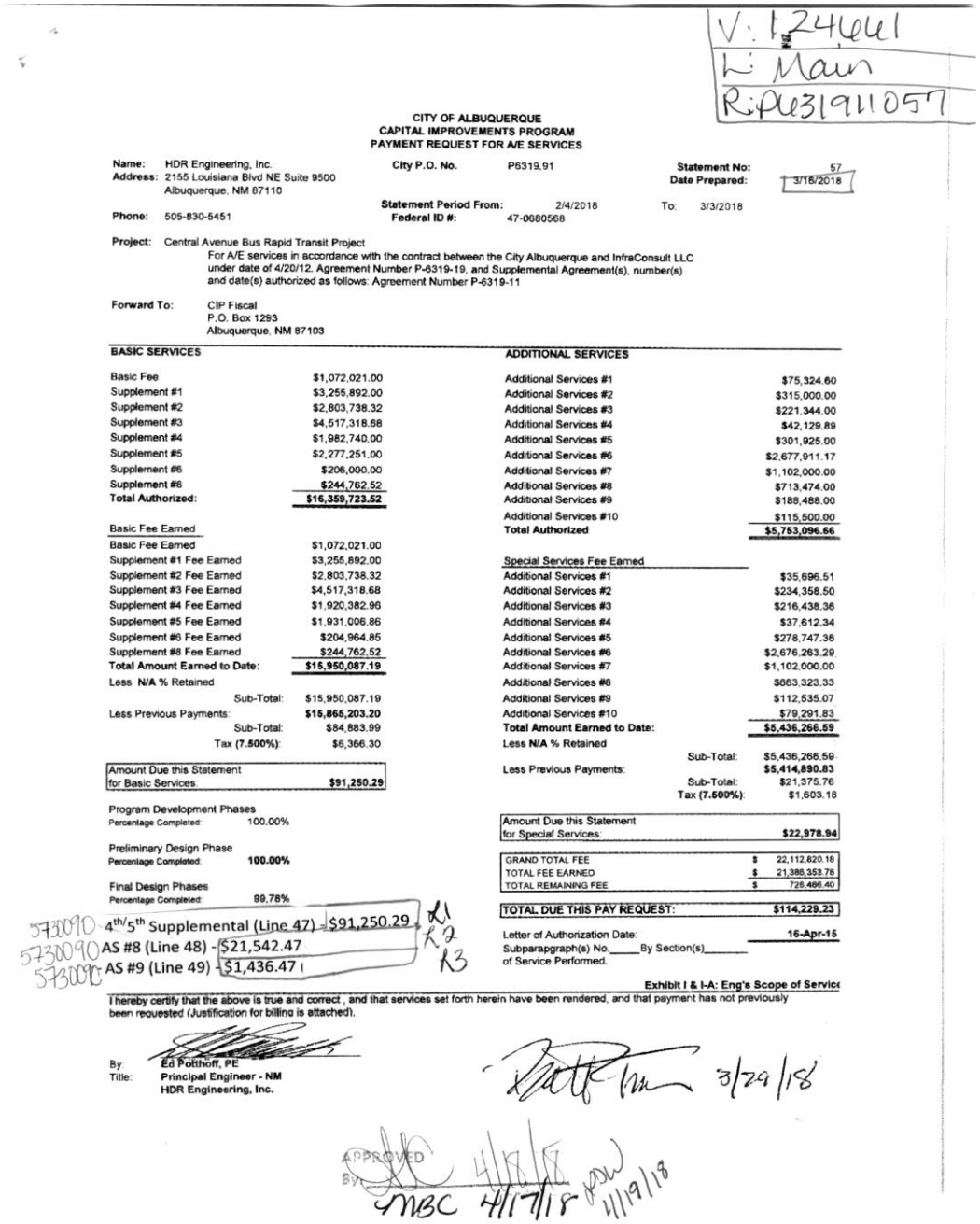
APPROVED
By: 10/11/13
12-17-13
12/19/13

HDR Engineering, Inc.

The OIG reviewed paper and electronic documents from the payment requests made to the City by HDR. HDR had nine supplemental agreements during the ART project. Forty-eight payments have been made by the City to HDR. The payment requests were signed by HDR's Principal Engineer and approved by the City's project manager and DMD's CIP management. The payment request

documents contained the contract authorized amount, total amount paid to date and amount due this payment request. Expenses for the period were broken down by supplement fees earned and additional service fees earned. Percentage completion of different phases of the project during the request period were also stated. Electronic accounts payable data was reviewed for invoice information and payments made by the City.

Example of Payment Request for HDR:



V: 124641
L: Main
R: P6319110S7

CITY OF ALBUQUERQUE
CAPITAL IMPROVEMENTS PROGRAM
PAYMENT REQUEST FOR A/E SERVICES

Name: HDR Engineering, Inc.
Address: 2155 Louisiana Blvd NE Suite 9500, Albuquerque, NM 87110
Phone: 505-830-5451

City P.O. No. P6319,91
Statement No: 57
Date Prepared: 3/15/2018
Statement Period From: 2/4/2018 **To:** 3/3/2018
Federal ID #: 47-0680568

Project: Central Avenue Bus Rapid Transit Project
For A/E services in accordance with the contract between the City Albuquerque and InfraConsult LLC under date of 4/20/12. Agreement Number P-6319-19, and Supplemental Agreement(s), number(s) and date(s) authorized as follows: Agreement Number P-6319-11

Forward To: CIP Fiscal
P.O. Box 1293
Albuquerque, NM 87103

BASIC SERVICES	
Basic Fee	$1,072,021.00
Supplement #1	$3,255,892.00
Supplement #2	$2,803,738.32
Supplement #3	$4,517,318.68
Supplement #4	$1,982,740.00
Supplement #5	$2,277,251.00
Supplement #6	$206,000.00
Supplement #8	$244,762.52
Total Authorized:	**$16,359,723.52**
Basic Fee Earned	
Basic Fee Earned	$1,072,021.00
Supplement #1 Fee Earned	$3,255,892.00
Supplement #2 Fee Earned	$2,803,738.32
Supplement #3 Fee Earned	$4,517,318.68
Supplement #4 Fee Earned	$1,920,382.96
Supplement #5 Fee Earned	$1,931,006.86
Supplement #6 Fee Earned	$204,964.85
Supplement #8 Fee Earned	$244,762.52
Total Amount Earned to Date:	**$15,950,087.19**
Less N/A % Retained	
Sub-Total:	$15,950,087.19
Less Previous Payments:	**$15,865,203.20**
Sub-Total:	$84,883.99
Tax (7.500%):	$6,366.30
Amount Due this Statement for Basic Services:	**$91,250.29**

Program Development Phases
Percentage Completed: 100.00%

Preliminary Design Phase
Percentage Completed: **100.00%**

Final Design Phases
Percentage Completed: 99.78%

ADDITIONAL SERVICES	
Additional Services #1	$75,324.60
Additional Services #2	$315,000.00
Additional Services #3	$221,344.00
Additional Services #4	$42,129.89
Additional Services #5	$301,925.00
Additional Services #6	$2,677,911.17
Additional Services #7	$1,102,000.00
Additional Services #8	$713,474.00
Additional Services #9	$188,488.00
Additional Services #10	$115,500.00
Total Authorized	**$5,753,096.66**
Special Services Fee Earned	
Additional Services #1	$35,696.51
Additional Services #2	$234,358.50
Additional Services #3	$216,438.36
Additional Services #4	$37,612.34
Additional Services #5	$278,747.36
Additional Services #6	$2,676,263.29
Additional Services #7	$1,102,000.00
Additional Services #8	$863,323.33
Additional Services #9	$112,535.07
Additional Services #10	$79,291.83
Total Amount Earned to Date:	**$5,436,266.59**
Less N/A % Retained	
Sub-Total:	$5,436,266.59
Less Previous Payments:	**$5,414,890.83**
Sub-Total:	$21,375.76
Tax (7.600%):	$1,603.18
Amount Due this Statement for Special Services:	**$22,978.94**

GRAND TOTAL FEE	$ 22,112,820.18
TOTAL FEE EARNED	$ 21,386,353.78
TOTAL REMAINING FEE	$ 726,466.40
TOTAL DUE THIS PAY REQUEST:	**$114,229.23**

Letter of Authorization Date: **16-Apr-15**
Subparapgraph(s) No.____ By Section(s)_____
of Service Performed.

Exhibit I & I-A: Eng's Scope of Servic

I hereby certify that the above is true and correct , and that services set forth herein have been rendered, and that payment has not previously been requested (Justification for billing is attached).

By: Ed Potthoff, PE
Title: **Principal Engineer - NM**
HDR Engineering, Inc.

3/29/18

5730090 4th/5th Supplemental (Line 47) - $91,250.29 R1
5730090 AS #8 (Line 48) - $21,542.47 R2
5730090 AS #9 (Line 49) - $1,436.47 R3

APPROVED
BY: MBC 4/17/18 pdw 4/19/18

Engineering Services: HDR Engineering, Inc
Central Avenue Rapid Transit Project
Project No. 6319.11

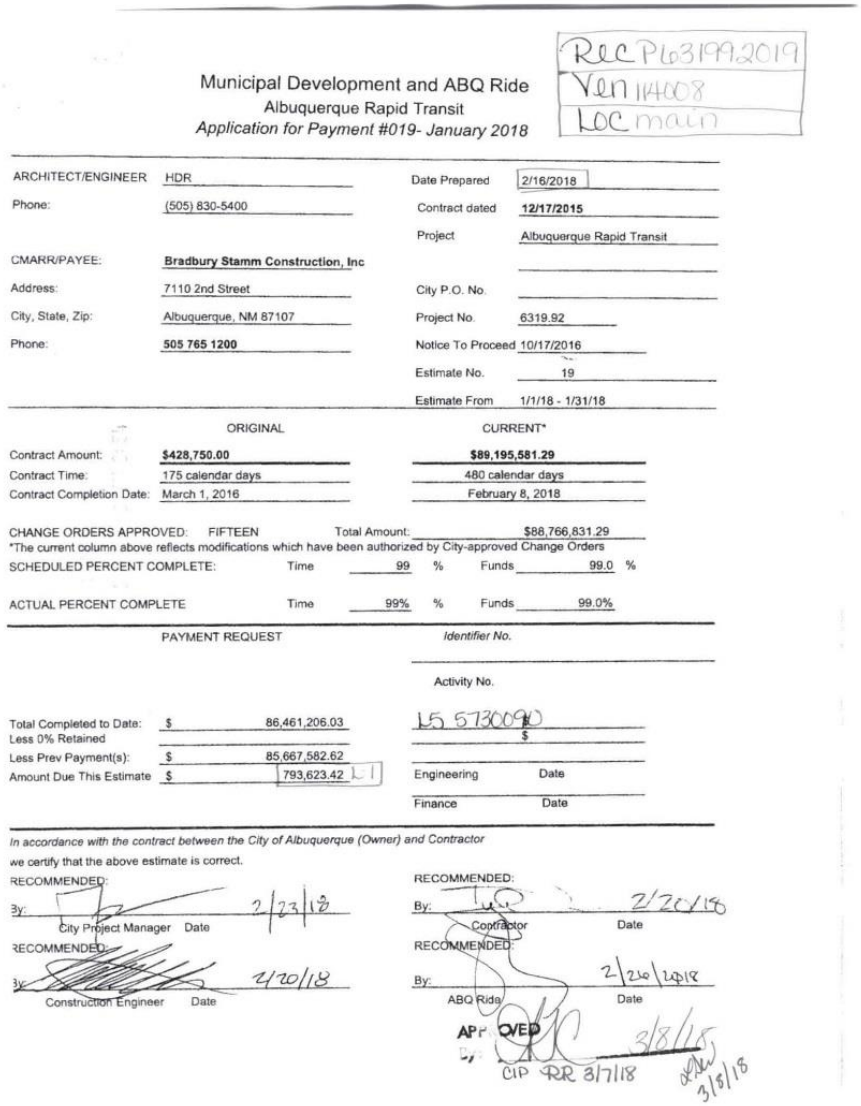
Payment	Period	Date Prepared	Amount	Date Paid
1	9/1/13 thru 2/28/14	3/25/2014	$ 162,887.96	5/20/2014
2	3/1/14 thru 3/31/14	5/10/2014	$ 87,091.95	6/20/2014
3	4/1/14 thru 5/31/14	6/27/2014	$ 318,063.80	7/22/2014
4	6/1/14 thru 6/30/14	7/10/2014	$ 78,642.24	7/24/2014
5	7/1/14 thru 7/31/14	8/8/2014	$ 239,648.52	11/13/2014
6	8/14/14 thru 9/27/14	10/15/2014	$ 595,850.08	11/13/2014
7	9/28/14 thru 11/1/14	11/25/2014	$ 294,777.71	12/11/2014
8	11/2/14 thru 11/29/14	12/22/2014	$ 352,358.92	1/20/2015
9	11/30/14 thru 12/27/14	1/13/2015	$ 180,527.17	2/9/2015
10	12/28/14 thru 1/24/14	2/12/2015	$ 552,629.89	3/17/2015
11	1/25/15 thru 2/21/15	3/12/2015	$ 425,515.56	3/24/2015
12	2/22/15 thru 3/28/15	4/16/2015	$ 402,524.56	5/4/2015
13	3/29/15 thru 5/2/15	5/21/2015	$ 346,284.99	6/10/2015
14	5/3/15 thru 5/30/15	6/18/2015	$ 107,551.20	7/1/2015
15	5/3/15 thru 5/30/15	6/18/2015	$ 319,168.32	7/24/2015
16	5/31/15 thru 6/27/15	7/17/2015	$ 864,831.72	8/7/2015
17	6/28/15 thru 7/25/15	8/14/2015	$ 957,778.27	9/23/2015
18	7/26/15 thru 8/22/15	9/8/2015	$ 1,110,570.84	10/2/2015
19	8/23/15 thru 9/26/15	10/8/2015	$ 1,153,252.55	12/18/2015
20	9/27/15 thru 10/31/15	10/8/2015	$ 1,070,449.28	2/25/2016
21	11/1/15 thru 11/28/15	10/8/2015	$ 1,005,186.96	3/23/2016
22	11/29/16 thru 12/26/15	1/25/2016	$ 710,854.05	4/20/2016
23	1/23/16 thru 2/20/16	3/8/2016	$ 731,568.91	5/20/2016
24	12/27/15 thru 1/23/16	4/18/2016	$ 1,204,327.17	5/11/2016
25	2/21/16 thru 3/26/16	4/28/2016	$ 817,976.99	5/20/2016
26	3/26/16 thru 4/30/16	5/25/2016	$ 770,867.49	6/17/2016
27	5/1/16 thru 5/28/16	6/28/2016	$ 409,236.00	7/18/2016
28	5/29/16 thru 6/25/16	7/14/2016	$ 159,784.21	10/10/2016
29	6/26/16 thru 7/23/16	12/13/2016	$ 426,615.78	1/23/2017
30	7/24/16 thru 8/20/16	1/10/2017	$ 391,632.18	2/16/2017
31	8/21/16 thru 9/24/16	1/10/2017	$ 239,144.79	3/13/2017
32	9/25/16 thru 10/29/16	3/1/2017	$ 382,543.27	4/12/2017
33	10/29/19 thru 11/26/16	3/3/2017	$ 303,978.47	4/12/2017
34	11/27/16 thru 12/31/16	3/17/2017	$ 333,679.46	4/12/2017
35	1/1/17 thru 2/4/17	3/28/2017	$ 354,886.47	5/3/2017
36	2/5/17 thru 3/4/17	3/30/2017	$ 307,425.47	6/22/2017
37	3/5/17 thru 4/1/17	4/28/2017	$ 255,561.33	8/16/2017
38	4/2/17 thru 4/29/17	5/25/2017	$ 782,289.75	9/5/2017
39	4/30/17 thru 5/27/17	5/25/2017	$ 238,079.82	9/22/2017
40	5/28/17 thru 7/1/17	8/8/2017	$ 421,143.29	11/15/2017
41	7/2/17 thru 8/5/17	8/31/2017	$ 370,569.99	11/22/2017
42	8/6/17 thru 9/2/17	9/29/2017	$ 272,778.28	12/20/2017
43	9/3/17 thru 9/30/17	10/23/2017	$ 302,902.91	1/4/2018
44	10/1/17 thru 10/28/17	11/10/2017	$ 264,130.02	1/4/2018
45	10/26/17 thur 11/25/17	12/11/2017	$ 264,514.51	11/11/2018
46	11/26/17 thur 12/30/17	1/17/2018	$ 209,416.20	3/5/2018
47	12/31/17 thru 2/3/18	2/19/2018	$ 287,403.72	4/3/2018
48	2/4/18 thru 3/3/18	3/16/2018	$ 114,229.23	4/23/2018
			$ 21,953,132.25	

Payments to HDR:

The above table reflects funds paid to HDR during the period of 2014 to 2018 for architectural and engineering services in support of the ART project. The table was created by OIG using data from the City's PeopleSoft database.

BSC

The OIG review of documents disclosed there were fifteen change orders during the ART Project, and twenty payments had been made by the City to BSC. The payment requests were signed by HDR's Principal Engineer and approved by the City's project manager and DMD's, CIP management. The Application for Payment documents contained the contract original, contract current amount, total amount paid to date and amount due this payment request. Expenses for the period were organized by segments and specific tasks related to each segment. The applications for payments provided percentage completed, cost for the period and total paid for each task in the segment. Additionally, a review of electronic accounts payable data was conducted to obtain invoice information and payments made by the City. Below is an example of application for payment from BSC:



Municipal Development and ABQ Ride
Albuquerque Rapid Transit
Application for Payment #019- January 2018

Rec P 6319.2019
Ven 114008
Loc main

ARCHITECT/ENGINEER	HDR	Date Prepared	2/16/2018
Phone:	(505) 830-5400	Contract dated	12/17/2015
		Project	Albuquerque Rapid Transit
CMARR/PAYEE:	**Bradbury Stamm Construction, Inc**		
Address:	7110 2nd Street	City P.O. No.	
City, State, Zip:	Albuquerque, NM 87107	Project No.	6319.92
Phone:	**505 765 1200**	Notice To Proceed	10/17/2016
		Estimate No.	19
		Estimate From	1/1/18 - 1/31/18

	ORIGINAL	CURRENT*
Contract Amount:	**$428,750.00**	**$89,195,581.29**
Contract Time:	175 calendar days	480 calendar days
Contract Completion Date:	March 1, 2016	February 8, 2018

CHANGE ORDERS APPROVED: FIFTEEN Total Amount: $88,766,831.29
*The current column above reflects modifications which have been authorized by City-approved Change Orders
SCHEDULED PERCENT COMPLETE: Time 99 % Funds 99.0 %
ACTUAL PERCENT COMPLETE Time 99% % Funds 99.0%

PAYMENT REQUEST

Identifier No.

Activity No. L5 5730090

Total Completed to Date:	$	86,461,206.03
Less 0% Retained		
Less Prev Payment(s):	$	85,667,582.62
Amount Due This Estimate	$	793,623.42

Engineering Date
Finance Date

In accordance with the contract between the City of Albuquerque (Owner) and Contractor we certify that the above estimate is correct.

RECOMMENDED:
By: 2/23/18
City Project Manager Date

RECOMMENDED:
By: 2/20/18
Construction Engineer Date

RECOMMENDED:
By: 2/20/18
Contractor Date

RECOMMENDED:
By: 2/26/2018
ABQ Ride Date

APPROVED
By: 3/8/18
CIP RR 3/7/18 3/8/18

Contractor: BradBury Stamm Construction, Inc Project No. 6319.92				
Project: ART Preconstruction				
Payment	**Period**	**Date Prepared**	**Amount**	**Date Paid**
1	1/4/16 thru 3/31/16	4/6/2016	$ 295,395.60	5/17/2016
2	4/1/16 thru 5/15/16	5/19/2016	$ 133,335.89	6/17/2016
3	Thru 5/31/16	6/23/2016	$ 139,823.20	7/18/2016
4	Thru 10/31/16	11/4/2016	$ 2,599,961.30	12/15/2016
Project: ART Corridor Construction				
5	Thru 11/30/16	12/21/2016	$ 5,492,217.41	1/17/2017
6	12/1/16 thru 12/31/16	1/20/2017	$ 4,158,488.08	1/31/2017
7	1/1/17 thru 1/31/17	2/15/2017	$ 4,919,007.38	3/8/2017
8	2/1/17 thru 2/28/17	3/16/2017	$ 5,141,923.67	4/11/2017
9	3/1/16 thru 3/31/16	4/10/2017	$ 6,824,690.52	5/4/2017
10	4/1/17 thru 4/30/17	5/25/2017	$ 8,694,809.38	6/2/2017
11	5/1/17 thru 5/31/17	6/16/2017	$ 7,233,578.88	7/25/2017
12	6/1/17 thru 6/30/17	7/14/2017	$ 8,953,582.01	8/7/2017
13	7/1/17 thru 7/31/17	8/21/2017	$ 7,362,601.78	9/18/2017
14	8/1/17 thru 8/31/17	9/15/2017	$ 6,400,049.19	10/17/2017
15	9/1/17 thru 9/30/17	10/17/2017	$ 5,827,461.75	11/3/2017
16	10/1/17 thru 10/31/17	11/17/2017	$ 5,804,187.19	12/20/2017
17	11/1/17 thru 11/30/17	12/15/2017	$ 4,535,825.54	1/2/2018
18	12/1/17 thru 12/31/17	1/8/2018	$ 1,150,653.83	2/9/2018
19	1/1/18 thru 1/31/18	2/16/2018	$ 793,623.42	3/12/2018
20	2/1/18 thru 2/28/18	4/5/2018	$ 403,619.69	4/25/2018
			$ 86,864,835.71	

BYD Purchase

The City awarded BYD with a contract for $22,921,137 to provide 18 K11 60 foot, five-Door electric buses. The electric buses were new models to the market and had not gone through any formal testing. FTA federal funding cannot be used for the electric buses until a new model bus has completed and passed the Altoona testing.[12]

The City was not obligated to pay for the buses until the Altoona testing was completed and all electric buses were modified to match the bus that passed the testing. Due to BYD not meeting the deadline and having numerous problems with the buses, the City may try to renegotiate the contract or terminate it.

Although the City has not paid for the buses, it has incurred expenses from sending City Transit employees to the BYD manufacturing facility in Lancaster, California, to observe and inspect

[12] Altoona testing is required on all new model buses before they can be purchased with federal funds. Testing is performed at the Altoona Bus Research and Testing Center in Altoona, Pennsylvania. Nine tests are performed on the buses: safety, structural integrity and durability, reliability, performance, maintainability, noise, fuel economy, brake and emissions. These are not pass-fail tests; the data from all tests are compiled into a test report that is made available to the manufacturer to provide information during the procurement process. http://altoonabustest.psu.edu/home

assembly of the buses. As of 26 January 2018, the City had paid $68,948[13] in travel expenses for City employees.

The City also decided to stop sending Transit employees from doing the onsite inspections at the BYD's facility and instead hired an engineering firm to conduct the inspections on behalf of the City for the five remaining electric buses. The contract amount was for $20,550.

ART Funds Expended and Remaining

The ART project construction is near completion, the Fiscal manager for Transit provided the following information.

ART Budget Spent and Remaining		
Spent		$ 108,113,325
Remaining		
Buses		$ 22,921,137
Construction/Project Management		$ 2,637,188
Total Remaining		$ 25,558,325
Total ART Budget		**$ 133,671,650**

Note: With the City possibly making changes to the buses that will be used in the ART project, the remaining budget for the buses may change.

Funding Source for ART Project

From the conception of the ART Project, the City anticipated funding the majority of the project using federal grant funds.

According to TD Fiscal Manager, as of 1 June 2018, the City had received $9,692,398 in federal Non-Small Start Grant funds for the ART Project, which was used to pay for the Architectural and Engineering (A&E) Services performed by HDR. The amount of $22,196,003 of the City's budget for the ART project has been expended. The amount of $5,114,587 remains and is restricted to the bus funds and will not be used until payment is made for the buses. The amount of $96,668,663 is expected to be provided by the federal government.

On 16 March 2018, Chris Daniels, Chief Investment Officer, was asked about the source of funding for the ART project to date. He said that the finance structure for ART funding consists of various grants, all of which are reimbursable grants. This means the expenditures have to be paid first by the City, then, at some point are reimbursed by the grantor. The City used the "Transit Capital Grant Fund" to account for all expenditures and relevant grant revenues for the ART project. That said, the City does not have separate bank accounts for each Fund (in this instance the "Transit Capital Grant Fund"). The bank account for all Funds is a combined central account, which is referred to as a pooled cash account. The activities' accounting flow through respective Funds is paid out of or received in the central pooled cash bank account. In other words, a Fund may end up with a negative cash balance. However, the expenditures causing the

[13] $68,948 was calculated by review of electronic travel documents

negative balance would be paid nevertheless because the bank account is a combined pool of cash which always has positive balance.

Since the reimbursements have not yet been received from the federal government, the Transit Capital Grant Fund has a negative cash balance. The negative cash balance as of 26 January 2018 was $70,048,443. This is the balance provided to the IG on 22 February 2018 (Negative cash balance as of 1 June 2018 was over $76 million).[14] It is impractical to identify from which specific Funds or projects the cash was paid to cover the Transit Capital Grant Fund expenditures.

On 1 June 2018, Sanjay Bhakta, Chief Financial Officer (CFO), advised that generally, when an expenditure occurs the balancing line item would be either creating a liability (accounts payable) or cash (asset) and not a revenue. The source of the revenue can be identified, generally, by which fund the expenditure was flowed through (in case of ART, fund 665). He said the accounting method for ART will continue to be used by the current administration and it is in line with GAAP requirements.

He advised that in the future, what will change under the new administration is that unless there is a commitment from a granting agency by way of an executed grant agreement, such expenditures will not be allowed to occur. The above described practice will continue because a majority of the grants are reimbursement based and, as such, the money needs to be spent before it can be reimbursed, creating timing differences which may result in a negative cash situation for a short duration, however, such willingly and/or knowingly created negative cash balances will be justified because it would be allowed only when City has the relevant grant agreement in place and the City is almost simultaneously booking the receivables and proceeding with reimbursement requests.

City Central Account

The City's Wells Fargo bank account for all funds is a combined central account which is referred to as a pooled cash account. Since all funds are comingled, it was not possible to determine if bond monies for other projects were used to fund the ART Projects. The City could not identify from which specific funds or projects the monies came from to pay the ART project expenditures.

On 1 June 2018, Deputy Director for DMD, Kevin Sourisseau, advised that he did not have any knowledge regarding the diversion and use of bond funds to fund the ART project.

Governmental Accounting Standards Board (GASB)

OIG coordinated the inspection with the Office of Internal Audit (OIA) for consultative purposes as it pertains to funding best practices. Specifically, OIA provided input regarding the City's compliance with GAAP regarding the City's accounting methods. The Governmental Accounting Standards Board (GASB) provides accounting and finance standards for use by local and state governments.[15]

OIA expressed concern that the City might not be in compliance with GASB Statement 56, as it pertains to the City's recorded negative cash balance of over $72.5 million that could eventually

[14] Calculation made from data received from Transit.
[15] www.gasb.org, accessed on 6 June 2018

reach $96.7 million. GASB Statement 56 established "…accounting and financial reporting standards for related party transactions, subsequent events, and going concern considerations."[16]

GASB Statement 54 established "…accounting and financial reporting standards for all governments that report governmental funds."[17] It also established "…criteria for classifying fund balances into specifically defined classifications and clarifies definitions for governmental fund types."[18] Statement 54 includes the topic of "restricted funds," which is the concern as it pertains to the funds derived from General Obligation (GO) Bonds, and diverted to the ART Project, as represented by the former COO.

These concerns were addressed to the current CFO), Sanjay Bhakta, who related the following:

The CFO addressed the concern of ensuring the integrity of restricted funds (Bonds and Grants) that are currently pooled in the City's Wells Fargo central account, relating that in the future, the City will only obligate funds for projects involving federal funds (restricted) when a grant agreement has been signed. Typically, federal funds are provided on a reimbursement basis – that is, once the City has incurred the costs. Bhakta conveyed, "the exception would be [the] ART project wherein it would be impractical to comply at this point when the project is close to completion and it is a potential non-compliance inherited by the current administration."

Contingency Plan

Bhakta advised the City does not have a contingency plan and that the Administration's focus was to continue with the efforts to receive the federal reimbursements. He expressed the City Council had asked a similar question in light of the budget hearings. He provided the following verbatim Council question and the Administration's response:

> Question from Council: Please discuss the potential effects on City debt service funds and reserves, debt capacity, operating reserves, capital funds, interfund accounts, etc., if the City does not receive reimbursement for the construction of the Albuquerque Rapid Transit project through federal grants.
>
> **Response:** The City is diligently working to receive ART related grant reimbursements. However, if the federal government denies the reimbursements it would have a severe impact on the City's financial health.
>
> As of now, the City has recorded ART expenditures in the Transit Capital Grants Fund which has created a negative cash balance of over $72.5 million. As it relates to the cash outflows, the City paid for these expenditures using the overall cash pool, as it does with all appropriations. The total federal funding in jeopardy could eventually be $96.7 million. If the federal government affirmatively expresses that it will not reimburse the City, a new appropriation would be required.
>
> The City does not have sufficient reserves to mitigate the negative cash in the Transit Capital Grant Fund. Below are options to eliminate this negative cash balance.

[16] Governmental Accounting Series, Statement No. 56 of the Governmental Accounting Standards Board, March 2009, page 7
[17] Governmental Accounting Series, Statement No. 54 of the Governmental Accounting Standards Board, February 2009, page 2
[18] Ibid

1. The first option is to divert existing CIP funds to pay for the ART, which would require approval of the Council and possibly a referendum by voters on the repurpose of unspent bond proceeds. This option would require projects already planned and perhaps in initial stages to be cancelled or deferred.

2. The second option is to issue new debt either through GRT backed revenue bonds or use of future GO bond capacity. The Transit Department does not have sufficient revenues to service the revenue bond debt.
3. The third option could be a hybrid option wherein the total project could be partially funded by using the two options described above.

Quality:

The scope of this review was broadened to include a review of issues related to the quality of buses and construction, as addressed by the Mayor during multiple media engagements. Additionally, the review also included examining the quality oversight process used by the City to ensure the construction of the ART corridor and the buses met the contract specifications. The issues within this scope pertain to the following:

- Deficiencies identified in the construction of the ART route, to include platforms, ART lanes, crossings, etc. and actions taken to correct identified deficiencies
- Deficiencies identified in the manufacturing of the BYD buses and actions taken to correct the deficiencies
- Problems identified in the City's quality oversight processes

On 16 March 2018, HDR provided the City with an Excel spreadsheet that identified quality related "punchlist" items that were considered to be "non-conforming." As of that date, HDR indicated that 75% of the items had been completed. Unfortunately, due to the extended absence of the City's ART Project Manager, a more recent update was not available; however, the identified items continue to be corrected.

Interviews with City inspectors that traveled to BYD provided information that quality deficiencies have impacted buses and remain a priority for BYD to correct. The delayed delivery schedule was in part due to correcting issues, such as the leaking hubs, but was also significantly impacted by the delayed delivery of parts and components. In fact, several inspectors were advised that the delay was due to the part still being on the "boat" indicating the components were being imported.

The City does not have a sufficient formal organic quality assurance capability as exists with other government entities. The use of Transit personnel to act as an inspector when needed is insufficient; such inspectors are not generally subject matter experts, sometimes do not have the requisite technical training and experience and when tasked with these functions are not able to execute their primary duties. City contracts require contractors to provide quality control of the manufacturing process of their products, but the lack of organic capability to directly perform quality assurance of the manufacturing or construction process, increases the risk that deliverables will not be on schedule and meet contract specifications. The City relies on third party vendors to execute this function. Quality assurance is typically a "contract administration"

full time function in other government organizations, such as the federal government (e.g. Defense Contract Administration Agency).

Refer to the "interviews" section of this report for more detailed information on the challenges and issues identified in the quality assurance activities involving the BYD bus assembly process in Lancaster, CA.

BUY AMERICA ACT:

The review of the BAA compliance focused on the federal requirements when federal funds are used in a project. Since federal funds were anticipated in the ART project, the federal BAA applied to the purchase of the BYD buses. The City contracted with Global Innovations U.S.A. (GI), Tucson, AZ, to conduct a BAA Post-Delivery Buy America Act compliance audit. GI provided a 35 page audit report (including appendices) which indicated the BYD manufactured buses met the BAA requirements. Specifically, the following factors were addressed in the review:

- Federal BAA 2017 and 2018 requirement for percentages of components manufactured and purchased in the United States
- Components that were manufactured in and imported from China

Note: TD-1 indicated that he felt "pressured" to validate BAA compliance by signing documents representing that he personally validated the origination of the components.

Review of applicable 49 Code of Federal Regulations (CFR) Sections:

§ 663.37 Post-delivery purchaser's requirements certification.

For purposes of this part, a post-delivery purchaser's requirements certification is a certification that the recipient keeps on file that—

(a) Except for procurements covered under paragraph (c) in this section, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture of the rolling stock to be purchased and monitored and completed a report on the manufacture of such rolling stock.
Such a report, at a minimum, shall—

(1) Provide accurate records of all vehicle construction activities; and

(2) Address how the construction and operation of the vehicles fulfills the contract specifications.

(b) After reviewing the report required under paragraph (a) of this section, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.

Review: FTA Handbook regarding grant compliance requirements:

The FTA published the "Conducting Pre-Award and Post-Delivery Audits for Rolling Stock Procurements" handbook in January 2017, which provides recipients of federal transit grants with guidance in complying with federal law and regulations. Below is an excerpt regarding the

requirement to have a resident inspector at the assembly facility and the requirement to publish a "Resident Inspector Report," along with the required content:

3.2.1 Post-Delivery Purchaser's Requirements Certification Requirements Recipients must keep a Post-Delivery Purchaser's Requirements Certification on file that certifies:

- When required by 49 CFR § 663.37, a resident inspector (other than an agent or employee of the manufacturer) was at the manufacturing site throughout the period of manufacture and completed a report on the manufacture of the vehicles; and
- After reviewing the Resident Inspector's Report, and visually inspecting and road testing the delivered vehicles, the vehicles meet the contract specifications.

With certain exceptions described below, recipients are required to have an on-site resident inspector at the manufacturing site throughout the manufacturing period. The resident inspector must:

- Remain full-time at, or periodically visit, the final assembly location during the period of manufacture; and
- Visually inspect, participate in, and witness performance tests of the vehicles. Further, the resident inspector may visit component manufacturing sites, as necessary, during the period of manufacture of the rolling stock.

The resident inspector must prepare the Resident Inspector's Report that, at a minimum, provides:

- Accurate records of all vehicle construction activities (e.g., component manufacturing processes, final assembly activities, and collected quality control data); and
- A summary of how the construction and operation of the vehicles meet (or do not meet) the contract specifications. The report will reference the above cited manufacturing processes, final assembly activities, and quality control data.

It is the recipient's responsibility to verify that the vehicles comply with the contract specifications and to identify areas of noncompliance. The purpose of the Resident Inspector's Report is to assist the recipient in verifying that the vehicles meet the contract specifications.

Upon delivery of the vehicles and following receipt and review of the Resident Inspector's Report, the recipient must visually inspect and road test the vehicles to ensure the vehicles meet the contract specifications.

3.2.2 Required Purchaser's Requirements Documentation at Post- Delivery

Once the recipient has reviewed the Resident Inspector's Report, successfully inspected and tested the delivered vehicles, and is satisfied the Purchaser's Requirements have been met, the recipient will then:

- Complete a Post-Delivery Purchaser's Requirements Certification (see Appendices B.10 and B.11 for sample certifications).

Recipients must maintain a file for future FTA reviews that includes:

• The Post-Delivery Purchaser's Requirements Certification;
• A copy of the Resident Inspector's Report and any associated supporting documentation
• The solicitation specification;
• The manufacturer's bid specification;
• Authorizations of approved equals; and
• Any other supporting documentation.

3.2.3.2. Resident Inspector's Report for Purchaser's Requirements at Post-Delivery

As previously mentioned, the Resident Inspector's Report includes, at a minimum, accurate records of all vehicle construction activities (e.g., component manufacturing processes, final assembly activities, and collected quality control data) and a description of how the construction and operation of the vehicles meet (or do not meet) the contract specifications. Manufacturers will provide the necessary documentation to complete the review.

As a best practice, the Resident Inspector's Report and supporting documentation may include:

- A summary of the Resident Inspector's Report describing the scope of work performed on behalf of the recipient. The report would identify all activities that verify that the vehicle(s) comply with the contract specifications, and would include inspection qualification, and production testing.

- Recipient's independent inspections, in addition to the manufacturer's quality control (QC). This may be demonstrated by signed inspection reports (usually by hold point inspections where the manufacturer cannot proceed with work until the resident inspector's approval is obtained).

- The vehicle history books provided by the manufacturer and reviewed by the resident inspector prior to authorization for shipment of the vehicle(s). The resident inspector would briefly summarize the content of the vehicle history books provided by the manufacturer and include samples or excerpts that demonstrate accurate record of vehicle construction activities and adherence to quality control processes. Sample(s) of the Authorization-for-Shipment forms. The forms would include a sign-off signature by the resident inspector for each vehicle. The forms would list any open action items at the time of shipment.

- A summary describing how the manufacturer adequately implemented its QC processes throughout the manufacturing process. The summary would also address how the manufacturer adhered to appropriate FTA elements of quality. For example, a sample Closed Nonconformance Report would be included that identifies any corrective rework/repairs that were made and approved by the recipient or its designated representative. Note that nonconforming material that was repaired (that is, not fully conforming to OEM/specification requirements), or that is permitted to be used "as is" must be approved by the recipient.

- Verification that the manufacturer has maintained complete records of construction for each vehicle. These documents (typically called car files) would

likely contain details beyond the scope of the Resident Inspector's Report such as all of the manufacturer's quality control (QC) inspections.

- Evidence that delivered vehicles have been inspected and road tested to confirm they meet contract specifications. The report would include a summary list of static, dynamic, and performance tests performed on each vehicle. A sample of key test report results that show sign-offs for completed tests, failed tests, and any corrective action will also be included. This summary list of test results would be compared to the contract specifications to validate that the vehicles meet (or do not meet) contract specifications. Any elements that do not meet specification requirements must be accompanied by a contract modification approved by the recipient and identified in the Resident Inspector's Report summary.[19]

Review of BAA Audit Report:

On 8 May 2018, a review of the Post-Delivery BAA audit report for the purchase of 20 buses from BYD, disclosed the following information:

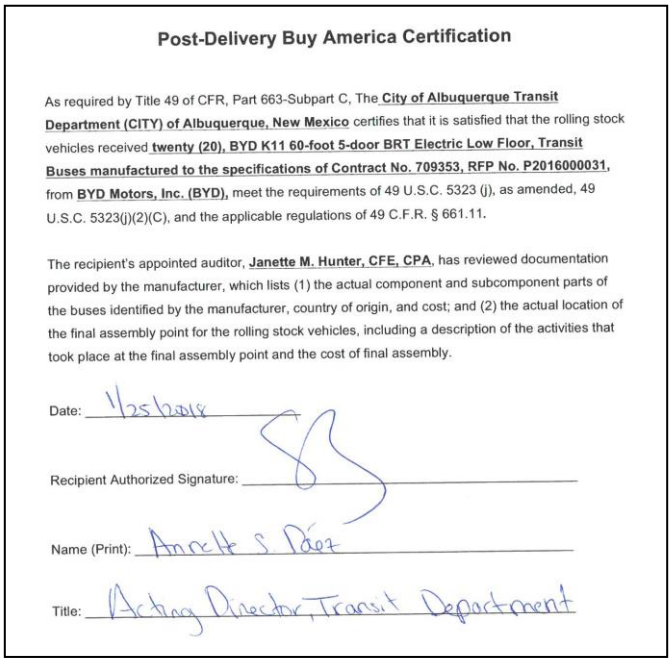
The audit report was completed and documented in a January 2018 report. The report indicated that GI was based in Tucson, AZ, and that the auditor was Janette Hunter. Three certifications were completed in conjunction with the report. They were as follows:

Post-Delivery Buy America Certification:

This certification contained the following language:

As required by Title 49 of CFR, Part 663-Subpart C, The City of Albuquerque Transit Department (CITY) of Albuquerque, New Mexico certifies that it is satisfied that the rolling stock vehicles received twenty (20), BYD K11 60-foot 5-door BRT Electric Low Floor, Transit Buses manufactured to the specifications of Contract No. 709353, RFP No. P2016000031, from BYD Motors, Inc., meet the requirements of 49 U.S.C. 5323 (j), as amended, 49 U.S.C. 5323(j)(2)(C), and the applicable regulations of 49 C.F.R. § 661.11.

The recipient's appointed auditor, Janette M. Hunter, CFE, CPA, has reviewed documentation provided by the manufacturer, which lists (1) the actual component and subcomponent parts of the buses identified by the manufacturer, country of origin, and cost; and (2) the actual location of the final assembly point for the rolling stock vehicles, including a description of the activities that took place at the final assembly point and the



Post-Delivery Buy America Certification

As required by Title 49 of CFR, Part 663-Subpart C, The **City of Albuquerque Transit Department (CITY) of Albuquerque, New Mexico** certifies that it is satisfied that the rolling stock vehicles received **twenty (20), BYD K11 60-foot 5-door BRT Electric Low Floor, Transit Buses manufactured to the specifications of Contract No. 709353, RFP No. P2016000031,** from **BYD Motors, Inc. (BYD),** meet the requirements of 49 U.S.C. 5323 (j), as amended, 49 U.S.C. 5323(j)(2)(C), and the applicable regulations of 49 C.F.R. § 661.11.

The recipient's appointed auditor, **Janette M. Hunter, CFE, CPA**, has reviewed documentation provided by the manufacturer, which lists (1) the actual component and subcomponent parts of the buses identified by the manufacturer, country of origin, and cost; and (2) the actual location of the final assembly point for the rolling stock vehicles, including a description of the activities that took place at the final assembly point and the cost of final assembly.

Date: 1/25/2018

Recipient Authorized Signature:

Name (Print): Janette S Patt

Title: Acting Director, Transit Department

[19] Federal Transit Administration publication: Conducting Pre-Award and Post-Delivery Audits for Rolling Stock Procurements, January 2017, pp 26 - 29

cost of final assembly. This Certification was dated, 25 January 2018, and signed by Páez.

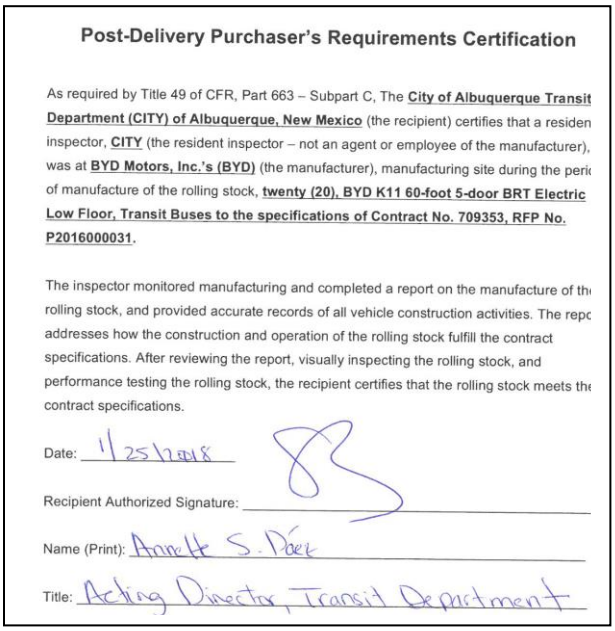
Post-Delivery Purchaser's Requirements Certification

This certification contained the following language:

As required by Title 49 of CFR, Part 663 – Subpart C, The City of Albuquerque Transit Department (CITY) of Albuquerque, New Mexico (the recipient) certifies that a resident inspector, CITY (the resident inspector – not an agent or employee of the manufacturer), was at BYD Motors, Inc.'s (the manufacturer), manufacturing site during the period of manufacture of the rolling stock, twenty (20), BYD K11 60-foot 5-door BRT Electric Low Floor, Transit Buses to the specifications of Contract No. 709353, RFP No. P2016000031.

The inspector monitored manufacturing and completed a report on the manufacture of the rolling stock, and provided accurate records of all vehicle construction activities. The report addresses how the construction and operation of the rolling stock fulfill the contract specifications. After reviewing the report, visually inspecting the rolling stock, and performance testing the rolling stock, the recipient certifies that the rolling stock meets the contract specifications.

This Certification was dated, 25 January 2018, and signed by Páez.



Post-Delivery Purchaser's Requirements Certification

As required by Title 49 of CFR, Part 663 – Subpart C, The **City of Albuquerque Transit Department (CITY) of Albuquerque, New Mexico** (the recipient) certifies that a residen inspector, **CITY** (the resident inspector – not an agent or employee of the manufacturer), was at **BYD Motors, Inc.'s (BYD)** (the manufacturer), manufacturing site during the peri of manufacture of the rolling stock, **twenty (20), BYD K11 60-foot 5-door BRT Electric Low Floor, Transit Buses to the specifications of Contract No. 709353, RFP No. P2016000031**.

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Date: 1/25/2018

Recipient Authorized Signature:

Name (Print): Annette S. Páez

Title: Acting Director, Transit Department

Post-Delivery Federal Motor Vehicle Safety Standard (FMVSS) Compliance Certification

This certification contained the following language:

As required by Title 49 of the CFR, Part 663 – Subpart D, The City of Albuquerque Transit Department (CITY) of Albuquerque, New Mexico certifies that it received, at the post-delivery stage, a copy of BYD Motors, Inc.'s self-certification information stating that the buses, twenty (20), BYD K11 60-foot 5-door BRT Electric Low Floor, Transit Buses, manufactured to the specifications of Contract No. 709353, RFP No. P2016000031, comply with the relevant Federal Motor Vehicle Safety

Buy America Post-Delivery Audit – Contract No. 709353, RFP No. P2016000031

Post-Delivery FMVSS Compliance Certification

As required by Title 49 of the CFR, Part 663 – Subpart D, The **City of Albuquerque Transit Department (CITY) of Albuquerque, New Mexico** certifies that it received, at the post-delivery stage, a copy of **BYD Motors, Inc.'s** self-certification information stating that the buses, **twenty (20), BYD K11 60-foot 5-door BRT Electric Low Floor, Transit Buses**, manufactured to the specifications of Contract No. 709353, RFP No. P2016000031, comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

Date: 1/25/2018

Recipient Authorized Signature:

Name (Print): Annette S Páez

Title: Acting Director, Transit Department

Standards issued by the National Highway Traffic Safety Administration in Title 49 Code of Federal Regulations, Part 571.

This Certification was dated, 25 January 2018 and signed by Páez

The Executive Summary of the audit report indicated that Hunter visited the BYD Lancaster facility during the period 25-27 October 2017, with subsequent audit documentation submitted through 5 January 2018. BYD representatives included Mr. Xue, BYD Manager of Contract Administration and Project Management and Ms. Sharon Wu, BYD Project Manager. The report indicated that the City's representative confirmed that the delivery of the first bus (#1701) was on 7 August 2017 and the second bus (#1702) was delivered 30 October 2017. The report indicated that there were change orders incorporated into processes for Bus #1702 and that Bus #1701 and all remaining buses would undergo the change order processes. The report indicated that the "greater than 60 percent" threshold of "domestic content" for 2017 and the higher threshold of "65 percent" for 2018 would be incorporated into the auditor's review of the total material cost for both bus configurations and the supporting documentation.

BYD provided confidential information that was used to verify that the buses contained more than the required regulatory domestic component content percentage and identified the actual assembly location in the United States. BYD signed the auditor's Management Representation Letter that attested to the completeness and reasonableness of the information provided during the audit.

The report also included the Post-Delivery Buy America Auditor Certification, dated 3 January 2018, which certified that BYD met the requirements of the Post-Delivery Certification under 49 CFR 663.35. Specifically, Hunter confirmed that the BYD K11 60-foot 5-door BRT electric low floor buses manufactured for the Contract Number 709353, issued from COA RFP No. P2016000031 met the requirements of 49 U.S.C. 5323 (j), as amended, 49 U.S.C. 5323(j)(2)(C) and the applicable regulations of 49 C.F.R. § 661.11.

Post-Delivery Buy America Auditor Certification

I certify that I have conducted a Post-Delivery Buy America audit of the documents relating to the manufacture of twenty (20) BYD K11 60-foot 5-door BRT electric low floor transit buses (VINS 38003-38022, Bus Numbers 1701-1720).

BYD Motors, Inc. manufactured these vehicles for the City of Albuquerque Transit Department (CITY) of Albuquerque, New Mexico to the specifications of the Contract Number 709353, dated 1/26/17, issued from CITY RFP No. 2016000031.

This audit was conducted according to the requirements of 49 U.S.C. 5323 (m) and the applicable regulations of 49 CFR 663. The manufacturer has demonstrated that it constructed these vehicles in conformity with the requirements of 49 U.S.C. 5323 (j) as amended, 49 U.S.C. 5323 (j)(2)(C) and the applicable regulations of 49 CFR 661.11.

AUTHORIZED SIGNATURE: Janette M. Hunter, CFE, CPA

Janette M. Hunter, CFE, CPA
Buy America Compliance Auditor
Global Innovations, U.S.A.

DATE: 1/3/18

The report included a table (Certified Domestic Content Schedule) containing confidential BYD information that represented the total certified U.S. components as a percent of the total material cost of the rolling stock vehicle to be 71.17% for twenty BYD K11 60-foot 5-door BRT Electric Low Floor Buses (VINS 38003 – 38022), (Bus numbers 1701 – 1720), Contract Number 709353, RFP No. P2016000031.

CERTIFIED DOMESTIC CONTENT SCHEDULE

POST-DELIVERY BUY AMERICA AUDIT
BYD MOTORS, INC.

CITY OF ALBUQUERQUE TRANSIT DEPARTMENT ("CITY")
ALBUQUERQUE, NEW MEXICO

TWENTY (20) – BYD K11 60-FOOT 5-DOOR BRT ELECTRIC LOW FLOOR BUSES (VINS 38003-38022), (BUS NUMBERS 1701-1720)
CONTRACT NUMBER 709353, RFP NO. P2016000031

Total Certified U.S. Components as a % of Total Material Cost COMPONENT GROUP	COMPONENT DESCRIPTION	COMPONENT MANUFACTURER	CERTIFIED COUNTRY OF ORIGIN	BUY AMERICA CERTIFICATION	Auditor Certified U.S. Content % of Total Material Cost
Air Conditioning Evaporator/Condenser and Compressor Assemblies	ACE238DLS 480VAC 850VDC 12K HEAT STACK BYD ARTIC	Sutrak Corporation	US	Yes	4.48%
Air Conditioning Evaporator/Condenser and Compressor Assemblies Total					4.48%
Bike Rack Assemblies	Bike Rack Assemblies	Sportworks Northwest, Inc.	US	Yes	0.19%
Bike Rack Assemblies Total					0.19%
Destination Sign Assemblies	Destination Sign Assemblies - Amber DDxxA	Hanover Displays, Inc.	US	Yes	0.48%
Destination Sign Assemblies Total					0.48%
Driver's Seat Assemblies	Driver's Seat MODEL 9110	United States Seating	US	Yes	0.17%
Driver's Seat Assemblies Total					0.17%
Entrance And Exit Door Assemblies	Front Passenger Door	Vapor Bus International	US	Yes	0.58%
	Middle Passenger Door	Vapor Bus International	US	Yes	1.02%
	Rear Passenger Door	Vapor Bus International	US	Yes	1.02%
Entrance And Exit Door Assemblies Total					2.63%
Farebox	Farebox - Odyssey	Genfare, a div. of SPX Corp	US	Yes	1.23%
Farebox Total					1.23%
Fire Extinguisher System	Fire Extinguisher System	Amerex Corporation	US	Yes	0.75%
Fire Extinguisher System Total					0.75%
Front And Rear Bumper Assemblies	Front Bumper	Romeo Rim, Inc.	US	Yes	0.15%
	Rear Bumper	Romeo Rim, Inc.	US	Yes	0.08%
Front And Rear Bumper Assemblies Total					0.23%
Generator/Alternator And Electrical Systems	HAMS	I/O Controls Corporation	US	Yes	0.07%
	Vehicle Data Logger Assembly	I/O Controls Corporation	US	Yes	0.20%
	Vehicle Data Logger Cables	I/O Controls Corporation	US	Yes	0.01%
Generator/Alternator And Electrical Systems Total					0.29%
Insulation	Hydrophobic Melamine Foam	Polymer Technologies, Inc.	US	Yes	0.22%
Insulation Total					0.22%
Lighting	High Beam Headlights	I/O Controls Corporation	US	Yes	0.03%
	Low Beam Headlights	I/O Controls Corporation	US	Yes	0.02%
	Interior Lights	I/O Controls Corporation	US	Yes	0.01%
	LED Interior Lighting, Air Duct	I/O Controls Corporation	US	Yes	0.50%
Lighting Total					0.57%
Multiplex System	G4 Multiplex System	I/O Controls Corporation	US	Yes	0.29%
	Interior Lighting Control Module	I/O Controls Corporation	US	Yes	0.03%
Multiplex System Total					0.32%
Passenger Seats	Passenger Seats - Aries	4One LLC (Freedman)	US	Yes	1.81%
	Wheelchair restraint system - Quantum	Q'Straint America	US	Yes	0.68%
Passenger Seats Total					2.48%
Power Battery System	Rechargeable Energy Storage System, RESS 270Ah 591kWh	BYD Energy, LLC	US	Yes	53.09%
Power Battery System Total					53.09%
Wheelchair Ramp	Bridge Plate	Ricon Corporation	US	Yes	1.88%
	Wheelchair Ramp	Ricon Corporation	US	Yes	0.56%
Wheelchair Ramp Total					2.44%
Window Assemblies	Side Passenger Windows	Ricon Corporation	US	Yes	1.51%
	Driver's Window	Ricon Corporation	US	Yes	0.11%
Window Assemblies Total					1.61%
TOTAL CERTIFIED U.S. COMPONENTS AS A PERCENT OF THE TOTAL MATERIAL COST OF THE ROLLING STOCK VEHICLE					71.17%

The report included the following table which indicates the fourteen suppliers to BYD for the manufacturing of the BYD buses were certified under the Buy America requirement:

NO.	SUPPLIER	BUY AMERICA CERTIFICATION
1	4One LLC (Freedman)	Yes
2	Amerex Corporation	Yes
3	BYD Energy, LLC	Yes
4	Genfare, a div. of SPX Corp	Yes
5	Hanover Displays, Inc.	Yes
6	I/O Controls Corporation	Yes
7	Polymer Technologies, Inc.	Yes
8	Q'Straint America	Yes
9	Ricon Corporation	Yes
10	Romeo Rim, Inc.	Yes
11	Sportworks Northwest, Inc.	Yes
12	Sutrak Corporation	Yes
13	United States Seating	Yes
14	Vapor Bus International	Yes

GI BAA Audit Content Analysis Regarding Inspections:

Pages 11 and 12 of the GI BAA Audit Report (next two pages) asserts that certain actions were taken with regard to validation and reporting by the City's compliance with the BAA. As indicated in the "notes" below each assertion, based on interviews of inspectors and Transit Department key officials, most of the assertions pertaining to the inspection process were not accurate.

Specifically, the following assertions in the report are suspect:

- "City's resident inspectors conducted the inspections during production at the BYD manufacturing plant facility….beginning on June 18, 2017 for the first production bus in the order, VIN 38022, which was delivered to City on August 7, 2017."

  Note: Bus with VIN 38022, was bus #1701, which was built using a non-contract specification chassis – the chassis (and other components) were manufactured for the AVTA buses

- The resident inspectors also monitored and completed the post-delivery report documentation on the manufacture of the rolling stock as required by 49 CFR 663.7 which:

(a)(1) – Provide accurate records of all vehicle construction activities including certifying that the required domestic components identified on the Certified Domestic Content Schedule were installed on the vehicle

(a)(2) – Address how the construction and operation of the vehicles fulfills the contract specifications and the final assembly cost.

Note: All inspectors that rotated on a bi-weekly basis were interviewed and conveyed that they only completed a checklist that was not designed for the BYD electric buses, and provided through emails and phone calls, additional information on specific issues, but none were involved in completing any additional "post-delivery report documentation" as asserted in the reference paragraph, and only one of the inspectors was asked (allegedly under pressure) to "certify" that the required domestic components identified on the Certified Domestic Content Schedule were installed. None of the inspectors addressed how the construction of the vehicles fulfilled the contract specifications and the final assembly cost, as the inspectors did not see the specifications and were not aware of the costs.

- CITY's resident inspector also confirmed that the following documents for each vehicle were Provided directly to the CITY.
  - Individual Inspection sheets that have visual, road test, functional tests and water tests. All tests are completed at BYD and documented on Bus Acceptance Forms.
  - A configuration audit that ensured the bus meets CITY's Technical Summary per Request for Proposal (RFP)
  - Bus Acceptance Forms for the resident inspector final sign off and release authorization before bus is shipped to Albuquerque.

- "The resident inspector also complied with 49 CFR 663.37(b) by completing the report required under paragraph (a) above, and visually inspecting and road testing the completed vehicles to attest that the vehicles meet the City contract specifications."

Note: All inspectors advised during interviews that they were not involved in completing the report referenced in this assertion.

- "In accordance with FTA project management oversight guidance, City's project manager, inspector and auditor, perform the Post-Delivery Content Monitoring activities on the remaining buses in the order during the actual production phase to assess any impact on the domestic content compliance of any vehicle by the following:

    - Change Orders
    - Changes to the Bill of Materials
    - Changes to the assembly or manufacturing processes
    - Changes to the final assembly location
    - Any changes to the cost or origin of any components and subcomponents
    - Any change that would affect the domestic content of the vehicle"

  Note: All inspectors advised that they were not involved in the "Post-Delivery Content Monitoring" activities on any of the buses during the production phase to assess any impact on domestic content compliance of any vehicle as asserted above.

- "On file at the City's procurement department is the City's Resident Inspector Report, which identified the inspection activities performed along with the documentation BYD submitted to City throughout the inspection period. These documents supplement the configuration audit, which confirms that the manufacture and operation of the bus fully complies with the technical specifications as amended by the City."

  Note: All of the inspectors advised during their interviews that none of them were involved in the contribution or authoring a "Resident Inspector Report." Furthermore, both the former Acting Director of the Transit Department and the Transit Grant Management Analyst advised in their interviews that the referenced "Resident Inspection Report" was never written or published.

- "As stipulated in 49 CFR 663.37, the Post-Delivery Purchaser's Requirements Certification is supported by the presence of City's inspector, the resident inspector's report and the verification and results of visual inspections and quality control test sheets. The complete post-delivery purchaser's requirements certification should be filed along with copies of the solicitation specification, approvals of any approved equals, and the manufacturer qualifications."

  Note: As addressed previously, a "Resident Inspector's Report" was not completed. Additionally, inspectors were not trained to visually inspect components for verification of BAA compliance.

IV. Post-Delivery Purchaser's Requirements Certification

The Post-delivery purchaser's requirement certification, as described in 49 CFR 663 – Subpart C – 663.37, is provided in the Certifications section at the beginning of this report and is to be executed by a representative of the CITY.

Resident Inspector Requirement 49 C.F.R. § 663.37 (b)

Since CITY's contract exceeds ten (10) vehicles, a resident inspector (other than an agent or employee of the manufacturer) is required to be present at the manufacturing site throughout the manufacturing period of the CITY vehicles. CITY's resident inspectors conducted the inspections during production at the BYD manufacturing plant facility located at 46147 7th Street West, Lancaster, CA 93534, beginning on June 18, 2017 for the first production bus in the order, VIN 38022, which was delivered to CITY on August 7, 2017.

The resident inspectors also monitored and completed the post-delivery report documentation on the manufacture of the rolling stock as required by 49 CFR 663.37 which:

> (a)(1) - Provide accurate records of all vehicle construction activities including certifying that the required domestic components identified on the Certified Domestic Content Schedule were installed on the vehicle,
>
> (a)(2) - Address how the construction and operation of the vehicles fulfills the contract specifications and the final assembly cost.

CITY's resident inspector also confirmed that the following documents for each vehicle were provided directly to the CITY.

- Individual Inspection sheets that have visual, road test, functional tests and water tests. All tests are completed at BYD and documented on Bus Acceptance Forms.
- A configuration audit that ensured the bus meets CITY's Technical Summary per RFP
- Daily conference calls and emails with maintenance managers to discuss progress of each bus and any issues regarding the unit location in production, build issues (logs), and current parts shortage summaries, etc.
- Photos of steps throughout the build and photos of any issues.
- Discrepancy list.
- Bus Acceptance Forms for the resident inspector final sign off and release authorization before bus is shipped to Albuquerque.

The resident inspector also complied with 49 CFR 663.37(b) by completing the report required under paragraph (a) above, and visually inspecting and road testing the completed vehicles to attest that the vehicles meet the CITY contract specifications.

GLOBAL's auditor confirmed with the City of Albuquerque Transit Department's grants manager, Ms. Cassandra Gutierrez, that the CITY's resident inspector responsibilities were managed by ABQ Ride's Maintenance Manager who supervised ABQ Ride maintenance department employees conducting the on-site bus line inspections. Ms. Gutierrez also confirmed that ABQ Ride's Maintenance Manager completed the verification process of BYD's technical specifications, as submitted in the RFP, and were found to be in compliance with the CITY's solicitation specifications.

In accordance with FTA project management oversight guidance, CITY's project manager, inspector and auditor, perform the Post-Delivery Domestic Content Monitoring activities on the remaining buses in the order during the actual production phase to assess any impact on the domestic content compliance of any vehicle by the following:

- Change Orders
- Changes to the Bill of Materials
- Changes to the assembly or manufacturing processes
- Changes to the final assembly location
- Any changes to the cost or origin of any components and subcomponents
- Any change that would affect the domestic content of the vehicle

Figure 1 Post-Delivery Buy America Audit by Global Innovations, U.S.A., Page 11

GLOBAL's auditor obtained the Manufacturer's Purchaser's Requirements Certification which attests that BYD has provided to CITY's representatives and their resident inspectors, complete and accurate records of all vehicle construction activities, adherence to quality control processes, and confirmation that the vehicle has been inspected and road tested before delivery to the recipient. Additionally, BYD also certifies that the buses manufactured for CITY's contract are the same product described in the recipient's solicitation specification. (See Appendix B)

On file at the CITY's procurement department is the CITY's Resident Inspector Report, which identifies the inspection activities performed along with the documentation BYD submitted to CITY throughout the inspection period. These documents supplement the configuration audit, which confirms that the manufacture and operation of the bus fully complies with the technical specifications as amended by CITY.

As stipulated in 49 CFR 663.37, the Post-Delivery Purchaser's Requirements Certification is supported by the presence of CITY's inspector, the resident inspector's report and the verification and results of visual inspections and quality control test sheets. The completed post-delivery purchaser's requirements certification should be filed along with copies of the solicitation specification, approvals of any approved equals, and the manufacturer qualifications.

The CITY should keep the following information in the certification file to support the purchaser's requirements certification review:

- A comparison of solicitation and bid specifications
- An analysis of manufacturing capability
- Copies of the visual inspection sheets
- Copies of the road test sheets
- A copy of the resident inspector's report describing manufacturing activities
- Records of quality control measurements.

Figure 2 Post-Delivery Buy America Audit by Global Innovations, U.S.A., Page 12

Americans with Disabilities Act:

The OIG conducted a review of the City's compliance with the ADA in 2017 and published a report that briefly addressed ADA concerns regarding ART. The prior administration responded through local media that the City was in compliance with the ADA. The current Mayor addressed the public through the local media to address several ADA deficiencies. Based upon this revelation, the scope was expanded to address this issue again to include the deficiencies identified under the new Administration and what steps have been taken to correct the deficiencies.

ADA Deficiencies: DMD provided an Excel spreadsheet that identified all of the ADA Ramp deficiencies in the ART project. As of February 2018, there were 33 deficiencies that required correction, but that amount was reduced to only seven remaining deficiencies as of 1 June 2018. The City has been working with BS to ensure all ADA deficiencies are identified and corrected. HDR is in the process of updating the status of the remaining deficiencies and expects to provide that status to the City in June 2018.

Transit Department leadership has engaged with both the ADAAC and the Executive Director for the NMCB, to ensure their input was incorporated into the efforts to comply with the ADA. As an example, the ADAAC attended five meetings and participated in one tour of an ART electric bus to assess the accessibility. Additionally, the NMCB was invited to attend and provide inputs to meetings regarding the ART related ADA deficiencies – NMCB attended three meetings.

Inspection activity also disclosed the City oversaw more than 1,000 improvements related to pedestrian safety and accessibility. The improvements met national standards provided by ADA, Manual on Uniform Traffic Control Devices and the Public Rights-of-Way Accessibility Guidelines (PROWAG) and are listed below:

- 359 existing curb ramps were reconstructed to be compliant with ADA
- 354 existing drive pads were reconstructed to be compliant with ADA
- Audible and vibratory notifications were added to all station crosswalks
- Tactile surfaces were installed at all ART stations and curb ramps
- 475 obstacles were removed/relocated from existing sidewalks including light poles, power poles, meter poles, and fire hydrants to increase ADA accessibility
- Protected signal crossings at approximate 1/4-mile intervals, to increase the number of locations for pedestrians to cross Central Avenue
- Six HAWK beacons, (High-intensity Activated Crosswalk) were added to provide signalized access for pedestrians to cross at mid-block ART stations
- All pedestrian crosswalks were widened to 10 feet throughout the project and to 12 feet at the stations (except Bryn Mawr, 10'), allowing room for wheelchairs to pass one another
- 95% of all sidewalks were widened to a minimum of six feet
- 776 pedestrian level lights were added along sidewalks
- Landscape buffers were provided in many areas along project to provide separation between the roadway and pedestrian walkways

The City engaged Dixon Resources Unlimited (DRU), Regeneration Strategies and Primus Consulting to "…assess the on-street parking conditions along the Central Avenue corridor, identify applicable Americans with Disabilities Act (ADA) or other regulations that apply to

public on-street parking, summarize the PROWAG guidance and provide "best practices" examples regarding accessible on-street parking, and identify any potential opportunities for accessible on-street parking improvements, especially in areas with high on-street parking demand."

DRU published a 27 page report[20], dated 15 December 2017, based on their study that identified current accessible parking along the ART route on Central Avenue and provided opportunities for improvement. The report is not be summarized, but stated the assessment factored in federal, state and local requirements in their recommendations. The report assessed current conditions, explained the study area, and addressed both accessible parking spaces and the challenges of fraudulent use of disability placards. The report made recommendations addressing the fraudulent placard use and steps to make accessible parking space improvements over a phased in schedule for the next ten years. Below is a copy of the "Recommended Dedicated On-Street Accessible Parking Spaces (Blue Curbs)" table[21] that indicates the current conditions of eight total accessible parking spaces on Central Avenue, to the recommended 100 spaces.

Existing	**South of Central**	**North of Central**	**Total**
Dedicated Blue Curb Spaces	4	4	8
PROWAG Guidance	**South of Central**	**North of Central**	**Total**
Total Marked + Metered Spaces	999	581	1,580
Potential Total Dedicated Blue Curb Spaces	55	38	93
Potential New Dedicated Blue Curb Spaces	51	34	85
Potential % of Dedicated Blue Curb/Total Spaces	5.5%	6.5%	5.9%
Consultant Recommendation	**South of Central**	**North of Central**	**Total**
Marked + Metered + *Unmarked RPP Spaces*[29]	1,158	651	1,809
Potential Total Dedicated Blue Curb Spaces	60	40	100
Potential New Dedicated Blue Curb Spaces	56	36	92
Potential % of Dedicated Blue Curb/Total Spaces	5.2%	6.1%	5.5%

Meetings, Interviews and Consultations:

Meetings and interviews were held with several individuals to include City officials and employees, consultants, contractor officials and the contracted BAA auditor, GI. A partial list of the positions of individuals present at meetings and interviewed include:

- Assistant City Attorneys
- Contracted Attorney Consultant
- City Accountant
- Department of Transit Officials
- Department of Municipal Development Officials
- City Purchasing Office Officials
- Contractor Officials
- Transit Department Inspectors

[20] Dixon Resources Unlimited and Regeneration Development Strategies report, dated 15 Dec 2017
[21] Ibid, page 15

Meeting: Assistant City Attorneys and OIG

A meeting was held to address the topic of City of Albuquerque's purchase of buses from BYD for the ART project.

The following individuals attended the meeting:

Jennifer Bradley, Assistant City Attorney, City of Albuquerque (COA)
John DuBois, Assistant City Attorney, COA
Peter Pacheco, Investigator, OIG, COA
David T. Harper, Inspector General, OIG, COA

Bradley advised that the BAA audit was conducted in support of the BYD contract to purchase buses for ART project. BYD is a large Chinese owned company with a presence in California. The company has an office in Los Angeles and an assembly facility in Lancaster, CA. Since federal funding was expected to be approved in the approximate amount of $22 million for the ART project's purchase of buses from BYD, the provisions of the BAA are applicable to the procurement of the buses.

Bradley advised that the City had not provided any funds to BYD and had not officially accepted ownership of the buses. At the time of the meeting, ten buses had been transported to the City for purposes of inspections.

Meeting: Assistant City Attorney, OIG and City Bond Attorney:

A meeting was held to address the topic of City of Albuquerque Bonds that were established by the voters of Albuquerque, to provide funding for certain projects.

The following individuals attended the meeting:

Christopher P. Muirhead, Attorney, Modrall Sperling
John DuBois, Assistant City Attorney, COA
Peter Pacheco, Investigator, OIG, COA
David T. Harper, Inspector General, OIG, COA

Muirhead advised that he provides legal support to the City of Albuquerque regarding the City's purchase and use of a variety of bonds to fund City projects. He said that the City issued Series C Bonds valued at $45 million. He said that $13 million of those funds was used for the ART project. The remainder of the funds were intended to be used on about a dozen other projects, with each bond specifically approved for a project. He said most of the bonds were individually supported by certain City Councilors based on projects they supported.

Muirhead said that his job as the Bond Counsel was to ensure that issue of debt and bond proceeds were in compliance with the following:

1. New Mexico State statutes and the State Constitution.
2. United States Internal Revenue Service (IRS) requirements regarding tax exemption for interest; IRS required bond proceeds to be spent within three years.
3. Securities and Exchange requires the bond is traded in compliance with their requirements.

Muirhead stated that he didn't have a role in the policies or political discussions within the City government. His responsibilities include ensuring the bond purchasers of the intended us of the bonds.

Muirhead advised that there are different State and local laws on use of the bond funds, which is based on the purpose of the appropriation. He advised that the City Budget Officer, Gerald Romero, is responsible for ensuring that the bond funds are placed into the correct account. He also said that the permitted use of the bond funds is also based upon the bond language as voted on by the voter.

Muirhead clarified that there were different categories of general obligation bonds for different projects, such as transit projects and street projects.

Muirhead said that if the prior Chief Operating Officer stated to a local radio show host that bond funds for other projects were used for the ART project, he would consider that to be a "red flag."

Muirhead said that federal grants are usually provided to municipalities after the incurrence of costs, rather than providing the funding before the expenditure. That is, in the ART project, the City would need to incur the costs and make payment to the contractors and would then be reimbursed by the Federal Government. On 30 May 2018, Muirhead clarified that 85 percent of bond proceeds should be spent within three years of issuance, ideally wanting 100 percent to be spent within the three years. Within five years, all bond proceeds should be spent.

Meeting: BYD Officials

On 1 February 2018, a series of two meetings were held at the BYD assembly facility in Lancaster, CA. The first meeting was Ralph Serrano, Senior Project Manager, Phases I & II, followed by a second meeting with Serrano, Chao Xue, Contract Administration Manager and David Trimble, Project Manager, Phase II.

The purpose of the meeting was to ascertain the collective knowledge of Serrano, Xue and Trimble, regarding the contract to provide BYD manufactured buses to the City of Albuquerque (COA), and several related aspects of the processes associated with the purchase.

The first meeting was with Serrano, who provided the following information:

The BYD President, Stella Li and Vice President, Macy Neshati, work at the Los Angeles Corporate Main Office for BYD USA. They were not present at the Lancaster, CA, facility.

The purchasing and manufacturing of the buses for the COA, occurred in three phases. The first phase was the "pre-productive phase" that involved meeting with COA officials to determine the desires of the customer. Essentially, this was a meeting to discuss what the City wanted. The second phase was considered the "design phase." This phase is where the specifications for the buses was addressed. Finally, the third phase of the process was the "delivery phase." Serrano advised that he was responsible for Phases I & II, and Trimble was responsible for Phase III.

Serrano advised that Xue was the Manager of Contracts Administration. He coordinated the second part of the meeting with both Xue and Trimble, which is documented below.

Xue advised that he was in a meeting with Neshati and Justin Scalzi, and had the former COA COO on the telephone. He described the meeting as being "tense" and said it was not usual to have such meetings. He said the COO wanted the delivery of the first bus, and that to accommodate the requested delivery, BYD decided to use the bus frame intended for the AVTA buses.

Note: This was the bus delivered for use by the former Mayor in a photograph that was taken for the Albuquerque Journal. One of the City inspectors indicated he overheard a discussion amongst the BYD officials after the phone call with the COO, and that the COO threatened to terminate the contract if the bus wasn't delivered in time for the former Mayor to ride on the bus.

Xue provided information about the BAA audit and auditor. He described the auditor, Janette Hunter as being "the most thorough BAA auditor" in his experience. He said that BYD provided support documents requested by the auditor, which included items such as purchasing orders, invoices, shipping documents, etc. He said that only the frames of the buses were made in China, and that all of the other assemblies and components were manufactured in the United States by American suppliers. He said that BYD also provided the auditor with a summary of calculations for the percentages of United States made parts.

Xue described the assembly process in four phases: 1) Welding shop; 2) Paint shop; 3) Chassis; and 4) Final Assembly. He then provided a tour of the assembly line, where he included visits to each assembly station.

Interviews: Transit Personnel

Several of the TD inspectors provided information regarding pages 11 and 12 of the BAA Audit performed by Global Innovations. For reference and clarity, images of pages 11 and 12 are embedded in the previous pages and may be referred to while reading the information provided by each of the interviewed inspectors. As previously stated, a review of the BAA Audit Report disclosed assertions that inspectors took certain actions as noted in the language of pages 11 and 12. Assertions of all interviewed inspectors and other TD personnel was inconsistent with inspection related information represented in the Audit Report.

TD-1:

On 17 January 2018, an interview was conducted of TD-1, Transit Materials Manager, Transit Department, City of Albuquerque, by IG David T. Harper and Investigator Peter Pacheco, OIG.

The purpose of the interview was to discuss TD-1's knowledge pertaining to his trip to the BYD bus manufacturer's assembly facility in Lancaster, CA. Specifically, the interview was intended to determine his knowledge of the assembly process, quality control related inspections, preparation of Transit Department designated inspectors, to include any training provided and any established qualifications to be selected as an inspector.

TD-1 provided the following information in response to questions and elaborated on relevant topics of importance to the overall process.

TD-1 advised that he visited the Lancaster assembly facility only once during the period October 19 through 3 November 2018. He stated he understood his purpose of the visit to the assembly was to conduct inspections of buses being built. He related that he was told there would be a

folder at the assembly facility for the buses being built. However, upon arrival, he didn't find any folder or forms there for the purpose of inspecting buses. He decided to take initiative and develop inspection forms and provide daily reports via email to his leadership.

He said that all 20 of the buses being built for COA were on the assembly line, going through different phases of the assembly process. He said the process included welding, wiring and work on the engines, as an example.

He said that he didn't have a technical or mechanical background, so applied "common sense" to the inspection process. He said that he would create a report for each step of progression on an inspection form each day. He said that he would sometimes stay late at night to ensure he was able to complete the inspection forms and would then submit them to Jim Carrillo, Annette Páez and Bruce Rizzieri.

According to TD-1, the prior Mayor's senior staff was adamant about having a bus transported to the City before the end of the administration. He said that he overheard a discussion among the BYD officials that they received a call from the prior COO, who had "threatened" the BYD Vice President over the telephone to get the first bus assembled and shipped in time. He allegedly said that the City would terminate the contract if the bus was not delivered before the end of November 2018. The pressure resulted in BYD assembling the first bus delivered to the City using a frame intended for buses being built for the AVTA, because the frames intended for the COA buses had not yet been shipped from China. Additionally, BYD decided to also use "parts and pieces" intended for the Antelope Valley buses to get the first bus assembled and delivered to COA. TD-1 said BYD's "core processes" on manufacturing buses was altered to ensure delivery of the first bus by the deadline. He further said that the first bus was moved to whatever assembly station was available to ensure it was assembled in time.

TD-1 advised that Joe Lueras, a supervisor, had traveled to the Lancaster facility prior to his trip. TD-1 said that Lueras didn't have "anything to do" during his site visit.

TD-1 said that by the time he arrived there buses "2, 3 and 4" were getting ready for transportation to the City.

He also said that quality control was compromised. He said there was only a generic inspection sheet for use by inspectors, but it did not resemble the buses being built. He said the Transit Department did not have quality control inspection sheets at the Lancaster location.

TD-1 said that he would question the assembly line employees about what they were doing, as a form of quality control. He said that he didn't have any inspection sheets that had required specifications, so he did his best to inspect the assembly process of the buses.

He had advised Carrillo that he intended to speak with senior officials of the Company, but that Carrillo instructed him not to have any communication with BYD supervisors or managers. When asked why not, he was told because "they lie." He was advised to only communicate with assembly line technicians. TD-1 said that Carrillo instructed him only to "watch" and that he was not required to complete or submit any inspection documents. He asked Carrillo if he should check the qualifications of BYD employees on the assembly line, but was instructed not to.

TD-1 advised that he was a volunteer for the inspection trip and only went on one trip. He didn't receive any training or instructions for the trip.

He said that he reported to BYD at 7:45am each day, but stayed very late and even stayed until midnight on some occasions. He said that BYD provided an office to the inspectors. He spend about 75% of his time inspecting on the assembly line and about 25% of his time writing inspection reports.

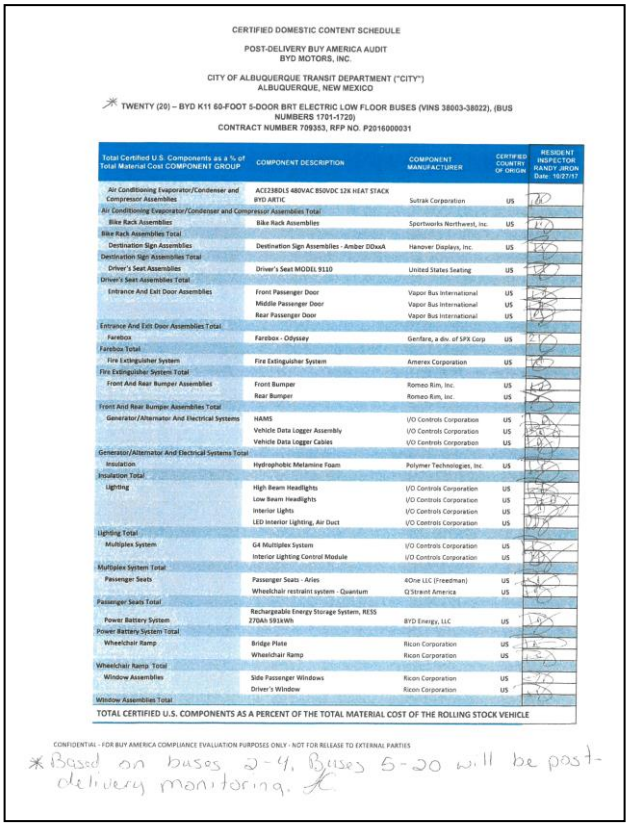
TD-1 said that there were about 200 BYD employees present at the facility and as many as 20 individuals working on one bus at any time and as few as nine individuals working on a single bus at other times.

One BYD employee informed TD-1 that he was the only City inspector present at the assembly facility. TD-1 said he asked Carrillo what the inspectors did who visited the facility prior to his visit. TD-1 asked some of the Transit employees who traveled to Lancaster, what they did during the visit and one person responded that they spent five days in Los Angeles with his family. TD-1 suggested to Carrillo that this employee should be charged with vacation time for the days he was visiting family in Los Angeles, but that Carrillo told him not to worry about it. He said that Chris Payton, Fiscal Manager, Transit Department, asked him why his rental car fuel was significantly less that than used by other City employees who traveled there. He responded that some employees were not going to the BYD facility.

TD-1 said that Amanda Meek was the only person who appeared to have taken notes regarding the bus inspection process; he found notes that she had taken.

TD-1 said that BYD controlled access to the assembly facility by issuing daily badges to City employees, who were required to check in and out online.

TD-1 described a situation he experienced regarding the Federal BAA requirement. He said that the City had an auditor conduct an audit of the BAA requirement and that both Carrillo and the auditor encouraged him to "sign off" on a document that represented the BAA requirements for a certain percentage of parts and components were met. Carrillo advised that he would also sign the documents. The auditor said that signing the document was just a "formality" to ensure compliance with the BAA. She also told TD-1 that the required amount of components "were there" and that she could "guarantee it." TD-1 said he informed them that he felt "uncomfortable" signing that the required components were there when he did not observe them. He finally agreed to sign if both Carrillo and the auditor indicated in the document that he only checked a sampling of components



CERTIFIED DOMESTIC CONTENT SCHEDULE

POST-DELIVERY BUY AMERICA AUDIT
BYD MOTORS, INC.

CITY OF ALBUQUERQUE TRANSIT DEPARTMENT ("CITY")
ALBUQUERQUE, NEW MEXICO

* TWENTY (20) – BYD K11 60-FOOT 5-DOOR BRT ELECTRIC LOW FLOOR BUSES (VINS 38003-38022), (BUS NUMBERS 1701-1720)
CONTRACT NUMBER 709353, RFP NO. P2016000031

Total Certified U.S. Components as a % of Total Material Cost COMPONENT GROUP	COMPONENT DESCRIPTION	COMPONENT MANUFACTURER	CERTIFIED COUNTRY OF ORIGIN	RESIDENT INSPECTOR RANDY JIRON Date: 10/27/17
Air Conditioning Evaporator/Condenser and Compressor Assemblies	AC223BDLS 480VAC 850VDC 12K HEAT STACK BYD AIRTIC	Sutrak Corporation	US	
Air Conditioning Evaporator/Condenser and Compressor Assemblies Total				
Bike Rack Assemblies	Bike Rack Assemblies	Sportworks Northwest, Inc.	US	
Bike Rack Assemblies Total				
Destination Sign Assemblies	Destination Sign Assemblies - Amber DOOXA	Hanover Displays, Inc	US	
Destination Sign Assemblies Total				
Driver's Seat Assemblies	Driver's Seat MODEL 9110	United States Seating	US	
Driver's Seat Assemblies Total				
Entrance And Exit Door Assemblies	Front Passenger Door	Vapor Bus International	US	
	Middle Passenger Door	Vapor Bus International	US	
	Rear Passenger Door	Vapor Bus International	US	
Entrance And Exit Door Assemblies Total				
Farebox	Farebox - Odyssey	Genfare, a div. of SPX Corp	US	
Farebox Total				
Fire Extinguisher System	Fire Extinguisher System	Amerex Corporation	US	
Fire Extinguisher System Total				
Front And Rear Bumper Assemblies	Front Bumper	Romeo Rim, Inc.	US	
	Rear Bumper	Romeo Rim, Inc.	US	
Front And Rear Bumper Assemblies Total				
Generator/Alternator And Electrical Systems	HAMS	I/O Controls Corporation	US	
	Vehicle Data Logger Assembly	I/O Controls Corporation	US	
	Vehicle Data Logger Cables	I/O Controls Corporation	US	
Generator/Alternator And Electrical Systems Total				
Insulation	Hydrophobic Melamine Foam	Polymer Technologies, Inc.	US	
Insulation Total				
Lighting	High Beam Headlights	I/O Controls Corporation	US	
	Low Beam Headlights	I/O Controls Corporation	US	
	Interior Lights	I/O Controls Corporation	US	
	LED Interior Lighting, Air Duct	I/O Controls Corporation	US	
Lighting Total				
Multiplex System	G4 Multiplex System	I/O Controls Corporation	US	
	Interior Lighting Control Module	I/O Controls Corporation	US	
Multiplex System Total				
Passenger Seats	Passenger Seats - Aries	4One LLC (Freedman)	US	
	Wheelchair restraint system - Quantum	Q'Straint America	US	
Passenger Seats Total				
Power Battery System	Rechargeable Energy Storage System, RESS 270Ah 591kWh	BYD Energy, LLC	US	
Power Battery System Total				
Wheelchair Ramp	Bridge Plate	Ricon Corporation	US	
	Wheelchair Ramp	Ricon Corporation	US	
Wheelchair Ramp Total				
Window Assemblies	Side Passenger Windows	Ricon Corporation	US	
	Driver's Window	Ricon Corporation	US	
Window Assemblies Total				
TOTAL CERTIFIED U.S. COMPONENTS AS A PERCENT OF THE TOTAL MATERIAL COST OF THE ROLLING STOCK VEHICLE				

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* Based on buses 2-4, Buses 5-20 will be post-delivery monitoring.

for BAA compliance. He said with regard to the auditor's report, that he was relying on someone he hoped was doing the right thing. TD-1 said that he felt he was under duress in being pressured to sign the document. TD-1 said that the auditor claimed she was not able to contact him when in Lancaster, to which he responded that was because she never tried to find him.

TD-1 said that he witnessed several tests including a water leak test, a brake test and a turning radius test; all appeared to meet specifications.

TD-2:

On 1 February 2018, an interview was conducted of TD-2, Transit Department, City of Albuquerque, by IG David T. Harper, OIG.

The purpose of the interview was to discuss TD-2's knowledge of the inspection process of the BYD buses that are being purchased by COA and other related matters. Specifically, the interview was intended to determine his knowledge of the assembly process, quality control related inspections, and preparation of Transit Department designated inspectors to include any training provided and any established qualifications to be selected as an inspector.

TD-2 provided the following information in response to questions and elaborated on relevant topics of importance to the overall process.

He said that his trip to Lancaster began on Thursday, 25 January 2018 and will conclude on Friday, 9 February 2018. He said that the City typically has inspectors traveling on Thursdays rather than weekends.

TD-2 said that TD didn't have selection criteria established for choosing inspectors for the BYD buses on the assembly line. He said instead, the TD chooses volunteers, and that the volunteers can come from various different backgrounds in terms of experience and qualifications. However, none of them were trained quality inspectors for buses. He also said that the City has used this process in the past to send City employees to the New Flyer's assembly facility in Middlebury, IN, to inspect buses and vans. He said that New Flyer was a City contractor for other non-electrical buses. He said that the TD did not train or prepare the inspectors in any way and didn't provide them with a guidebook, instructions, inspection manuals, or inspection checklists specifically developed for the BYD buses. He was provided with a checklist which was developed for the non-electrical buses that were built by New Flyer.

Two of the employees who traveled to BYD had some relevant experience – one employee had body shop experience and the other was an electronics technician. He also said that the first person to travel to BYD was Joe Lueras, who was also a supervisor.

He said that he was selected for this trip because he volunteered for it. He initially signed up, but on the day he departed, his trip was cancelled was cancelled by Annette Páez, Interim Director of Transit, and then later was restored. He said that there is a financial hardship to the inspector since the City doesn't provide sufficient advance funding of the trip. Each employee has to pay out of pocket for the rental car, fuel and subsistence costs. The City only pays for the air fare and lodging up front. He said the rental car was approximately $600 with taxes. He said due to the cancellation earlier on the day of travel, which resulted in cancellation of his lodging, the lodging costs were more when his trip was back on again, due to the short notice; the lodging was at the Staybridge Suites, at $2,211 for the duration of his time.

TD-2 advised that the City does do some preventative maintenance inspections of buses in Albuquerque, which includes quality control of brakes, engine rebuilds, etc. The preventative maintenance is for buses manufactured by other providers, such as New Flyer. For this reason, most of the inspectors have some inspection experience with the other buses, but he emphasized these are not electric buses and aren't the type of buses on the assembly line.

He said that the City obtained an inspection checklist that was provided by BYD, but not a checklist developed by the City for specific use at the BYD facility. He said that he obtained his checklist from Michael G. Baca (Baca), Assistant Maintenance Manager, TD.

He advised that BYD has had a representative at the Daytona Transit Facility since approximately October or November 2017. The purpose of the BYD representative is to address quality control issues with the buses, such as making corrections to the buses to ensure compliance with specifications. An example of this is the fact that at the time of the interview, a systemic leakage problem was discovered in the hubs of all buses. This problem was being addressed for buses in Lancaster as well as the buses transported to Albuquerque.

TD-2 described his duties as conducting the inspection at the "testing and validation phase" and, again, emphasized that he used a checklist to conduct this inspection that was not specifically developed for the BYD buses so there are items on the checklist that are not relevant to the electric buses and the checklist is probably missing items that should be included for electric buses. He emphasized that the checklist was developed for the New Flyer built buses. He said that no one at TD took the time to develop a checklist specifically for the BYD buses.

He conveyed that BYD officials have cooperated with him during his presence at the assembly facility. The company required him to sign a non-disclosure agreement. He said essentially, he agreed not to instruct assembly line employees to fix problems on the buses, but rather to make his observations known to company quality control officials who will address the problems. He said this process has worked and that the quality control officials have taken care of identified issues. He used the leaking hubs as an example – he took photographs of the buses with leaks and then took pictures again after the leaks were fixed.

TD-2 advised it would be helpful to have two inspectors located at the Lancaster facility as there are numerous task items to address and there will soon be two shifts each day. The amount of work is overwhelming for one inspector.

(**Note:** The two week rotation cycle can also inhibit continuity, which is important in the inspection process.)

He said that he believes BYD should have the assembly completed for all buses within one month.

TD-2 described a typical day for him: He usually arrives at or before 7 am and reads his emails. If there are emails that have specific tasks, such as requests from his supervisor, Baca, or his indirect supervisor, Jim Carrillo, he will then accomplish those tasks. He said that currently bus numbers 1711 through 1720 are currently in the assembly process. He visits the assembly line and takes notes of any issues pertaining to those buses that are going through different phases of assembly, such as painting and if he identifies problems needing fixing, he addresses those items with the quality control officials. He includes in his notes the status of each bus on the assembly

line and where they are on the line, such as getting glass, doors or seats installed. TD-2 also said that he participates in test drives and reports any concerns resulting from the drives to the quality control officials. He said that he typically wraps up his day about 3 pm and emails his supervisor. He said he generally returns to his hotel and works on reports using his personal laptop (he typically emails documents to himself from his work laptop). He generally keeps his reports on his personal computer and then emails the reports to his supervisors when completed. He also includes Carrillo, Páez and Nolan Meadows in his emails. He emphasized that he has been inspecting ten buses, ranging from #1711 to #1720.

He said that to date he has not observed any suspicious or irregular behavior or activity. However, he qualified his statement indicating that without specific training or expertise, he wouldn't be certain if there was suspicious behavior – it would probably have to be very obvious, such as a bent frame – he said he hasn't observed any bent frames. He also said that all remaining buses have been painted.

TD-2 said that he hasn't seen any testing of assemblies or components, but reemphasized that BYD does do road tests and functional tests, such as testing of lights, fans, horns, etc.

He said that he has not been offered any gifts, gratuities or other free items, but did say that he was told that BYD officials took Lueras and Rodriguez to lunch.

He said that all employees, to include City inspectors, are required to "clock in" every morning using an electronic tablet at the front reception desk, by entering their name, and then "clock out" at the end of each shift. He heard "rumors" that some inspectors did not report to work each day of their two week assignment.

TD-2: Second Interview

On 9 May 2018, a follow up interview was conducted of TD-2, regarding his knowledge pertaining to BAA related requirements.

He advised that the checklist was originally for the New Flyer buses but was modified to accommodate the BYD electric buses. He said that TD did not provide training to the inspectors prior to traveling to Lancaster, CA, but that his supervisor provided information regarding bus related issues and that he also contacted Jim Carrillo and Mike Baca on multiple times each day to report the status and any issues that developed.

He advised that he was able to ride on the buses for road testing and documented any issues on the inspection checklist.

He recalled that BYD required him to sign a non-disclosure agreement, which pertained to proprietary information.

Regarding the Post-Delivery Buy America Audit (PDBAA) Report language on page 11 (see figure 1) he said that he was not involved in the completion of the "post-delivery report documentation" as asserted.

He also said that he could not confirm that all of the six documents (first bulleted list in figure 1) on page 11 were provided directly to the City as asserted in the audit report. Specifically, he could not say:

- All tests were completed at BYD and documented on Bus Acceptance Forms
- A configuration audit that ensured the bus meets City's Technical Summary per RFP
- Bus Acceptance Forms for the resident inspector final sign off and release authorization before bus is shipped to Albuquerque

He advised that as one of the resident inspectors, he did not complete the report required under paragraph (a) above (see figure 1), and attest that inspections and the road test met City contract specifications as asserted in the report (see figure 1).

Though asserted in the audit report (figure 1 "…inspector responsibilities were managed by ABQ Ride's Maintenance Manager…"), he said that he had "little interaction with Jim Carrillo," Maintenance Manager, and only had "some interaction" with Mike Baca, Assistant Maintenance Manager.

TD-2 said that while he provided emails to his supervisor on a daily basis of issues pertaining to the buses, he was never directed to and did not completed or provided a formal "Resident Inspector Report," to the City. (See figure 2, paragraphs two and three)

TD-3

On 9 May 18, TD-3 was interviewed and provided the following information. He has been employed by the City since December 1993. He was the first employee to travel to Lancaster, CA, to inspect the BYD buses, which was in June 2017. His understanding of the inspection process was to inspect all aspects of the buses to include the frames, the bodies, the motors, etc.

He was asked about the preparation for the BYD buses and said that in the past, inspections of conventional buses made by other manufactures included checklists designed specifically for the buses, such as the New Flyer made buses. On this trip he said he emailed his supervisor every day and included other leaders in his emails, to include Mike Baca, Assistant Manager, Stephen E. Meyerhein, Assistant Transit Manager, Yale Transit Facility, and Randy Jiron, Parts Room Manager. He said he notified them of issues and received instructions in the emails if there were items to check on.

He said he was selected as an inspector because he previously inspected other buses, even though he didn't have any experience inspecting electric buses. He said he wasn't aware of any required qualifications for being selected as an inspector of the BYD electric buses. He advised that he wasn't provided with any specific instructions regarding responsibilities as an inspector at BYD, nor did he receive any special training as an inspector. He only went on one trip to Lancaster.

TD-3 described a typical day at the BYD facility: He usually arrived in the morning at about 7:00 am, then checked-in at the front desk entering his badge number. On his first day, Serrano spoke with him and provided him with a computer so that he could communicate with his

supervisor by email. Serrano also provided him with a tour of the manufacturing facility, which had not yet been expanded to the larger facility that exists today. Serrano introduced him to the "front line" employees, which included electricians, painters, body workers, etc. They also met with a team leader (doesn't recall the name).

On the second day, he asked about the status of the buses, as only four bus bodies were there and were being painted. He was told that the bus frames were still on the "ship" and had not been received. He notified his supervisor, Jim Carrillo, of the situation. Carrillo instructed him to "look" at the AVTA buses "to get an idea of what we'll get." He said he met with the AVTA inspector, who was on site, and took a ride on one of the AVTA buses. He said he also observed AVTA charging stations mounted on the wall. The AVTA buses were 40 feet long as opposed to the City of Albuquerque's buses which were 60 feet long.

(**Note**: The AVTA is the transit authority in the immediate vicinity of the BYD facility in Lancaster, CA)

He also saw the buses that the Denver Regional Transit District (DRTD) was purchasing, which were 45 foot electric buses. He said that Cincinnati was also purchasing electric buses from BYD, which he thought were also 60 feet in length. Serrano provided him with a tour of the battery manufacturing facility. He recalled the first chassis arrived on his last day at the Lancaster facility.

TD-3 advised that he wasn't able to observe buses in the various stages of the manufacturing process since the chassis only arrived on his last day.

He advised that Serrano did pay for two of his meals at fast food restaurants while there.

He did not complete any documentation for his two week visit to BYD since there were no buses to observe in the manufacturing process.

TD-3 recalled being at a supervisory level meeting sometime in 2016 where eight supervisors were present, as well as the former Department Director, Bruce Rizzieri. He said he had recommended to Rizzieri that the City consider only purchasing two buses from BYD initially and use them for a while to evaluate their performance, but Rizzieri said "no."

Regarding the Post-Delivery Buy America Audit (PDBAA) Report language on page 11 (see figure 1) he said that he was not involved in the completion of the "post-delivery report documentation" as asserted.

He also said that he could not confirm that all of the six documents (first bulleted list in figure 1) on page 11, were provided directly to the City as asserted in the audit report. Specifically, he could not confirm the following were accomplished and provided:

- All tests were completed at BYD and documented on Bus Acceptance Forms
- A configuration audit that ensured the bus meets City's Technical Summary per RFP
- Discrepancy list

- Bus Acceptance Forms for the resident inspector final sign off and release authorization before bus is shipped to Albuquerque

He advised that as one of the resident inspectors, he did not complete the report required under paragraph (a) above (see figure 1), and attest that inspections and the road test met City contract specifications as asserted in the report (see figure 1).

TD-3 said that while he provided emails to his supervisor on a daily basis of issues pertaining to the buses, he was never directed to and did not complete or provide a formal "Resident Inspector Report," to the City. (See figure 2, paragraphs two and three)

He said that the Denver area transit authority had a full time permanent resident inspector at the BYD facility, which provided continuity and was in a better situation for oversight. He said the inspectors were full time and that the inspection of the BYD buses was not a temporary assignment. He believed there needed to be at least two inspectors on two shifts at BYD.

TD-4:

On 9 May 18, TD-4 was interviewed and provided the following information. She is an electrical technician for the City and has worked for the City since April 2011. She volunteered to visit the BYD facility in Lancaster, CA, to conduct inspections of electric buses. She traveled to Lancaster on two occasions to conduct the inspections. The first trip was for the period 21 September 2017 to 6 October 2017. The second period was from 26 November 2017 to 8 December 2017.

She understood the purpose of the visits to BYD was to inspect buses prior to the City's purchase of the buses to ensure the buses met standards and contract specifications. She said that she put her name on a "sign-up" sheet for the first visit but that the second visit the Department needed more volunteers, so she "re-volunteered." She said that the City needed to send more inspectors because "BYD wasn't close to being finished."

She said that her background as a mechanic on buses for three years with the City and prior to that, with automobile dealerships helped her with the inspection process. She said she also inspected hybrid buses.

TD-4 advised that she did not receive any specific training for conducting the inspections and was told to report any "issues" to Jim Carrillo.

She described her first trip "typical day" at the BYD facility as starting about 7:30 am and departing about 3:30 pm. She was instructed by Carrillo not to work overtime as she wouldn't be paid. She said during her first trip, her predecessor didn't provide her much information on the inspection process. She recalled that during the first trip buses were at the welding stations. She said her day changed during her second trip – her hours changed from 7:30 am to 4:00 pm with a one hour lunch. During her second trip, buses were further along in the assembly process. She described some of her challenges with BYD and the inspection process. She said she found it difficult to get BYD officials to inform her when buses would be lifted so that she could inspect the undercarriage. She said BYD didn't tell her when road tests were scheduled, so she

was not able to participate in all of the road test trips for observation purposes. She recalled that there was one bus that was being prepared for transport to Albuquerque and was scheduled for a road trip – she asked the Program Manager if she could go on the road trip and was told that she would have to talk to the Quality Control Manager who, initially, questioned why she wanted to go on the road test but ultimately then did approve her request.

She said she observed the first bus being assembled and observed portions of the second bus assembly processes. She advised that she provided daily reports to Jim Carrillo, Bruce Rizzieri, Dayna Crawford, Randy Jiron, Annette Páez and Michael Riordan.

TD-4 advised that she engaged with BYD officials during her two visits to the Lancaster assembly facility, but could not recall their names. She recalled that at some of the meetings held at BYD, there were discussions about "pushing Albuquerque back," while referencing "another property," which could have been Chicago or Stanford University. She understood this to mean that BYD was considering "pushing" the deliver or production schedule for the Albuquerque buses back in order to accommodate buses being assembled for another customer. She also recalled that while observing the assembly of the Albuquerque buses, there were numbers on parts that were to be joined to help match the parts together, but didn't have the corresponding matching numbers to ensure the parts were properly joined. As an example, she said that two components might each have "7a" indicating they should be joined, but instead there might be a component that had "7a" but was joined with another component marked with "4b." She said that a BYD official told her that was not a problem. She also said there were instances when assembly sequences didn't seem right.

She was able to participate in one road test and observe other testing to include various components, such as the horn, the driver booster seat, etc., but wasn't able to observe all testing, such as the fire suppressor system, which wasn't ready for testing during her visit.
She indicated that during her first trip, Ralph Serrano, Project Manager, treated her to a steak dinner at the Black Angus restaurant.
She advised that the only documentation she completed during her visit was the inspection checklists for the buses. She was instructed by Jim Carrillo not to bring the checklists back to Albuquerque with her as another inspector would bring them back.

TD-4 said she was not involved in the completion of the post-delivery report documentation on the manufacturing of rolling stock as prescribed in 49 CFR 663.37. She also said that she was not involved in the completion of the "Bus Acceptance Forms," but did complete inspection checklists. She was not involved in the configuration audit and wasn't directly involved in ensuring the buses met the City's Technical Summary per the RFP. She did have daily calls with her supervisors to discuss issues, assembly status and receive instructions. She did provide photographs of assembly steps to her supervisor during her visits. She was not involved in the "Bus Acceptance Forms" for the "resident inspector final sign off and release authorization" prior to the buses being delivered to the City. She did not complete a "Resident Inspector Report," which was used to identify the inspection activities performed along with the documentation BYD submitted to the City.

TD-5:

On 9 May 18, TD-5 was interviewed and provided the following information. He is a Lead Mechanic for the City and has worked for the City since August 2016. He volunteered to visit the BYD facility in Lancaster, CA, to conduct inspections of electric buses. He traveled to Lancaster twice for the inspections – the first time was in July and the second visit was in December 2017.

His understanding of the purpose of the trips was to inspect buses and provide feedback to his supervisor regarding the assembly status and any issues involving the assembly process. He said that he communicated with Joe Lueras and Jim Carrillo during his BYD visits. He said that he felt "lost" during his first visit, which was in the early period of the assembly of buses, but began to understand the process more as time passed. He said during his second visit he was more aware of how the processes worked and his responsibilities. He recalled that he took a binder with him to help him stay organized and to document notes of issues.

He said that he was selected for the BYD visits because he volunteered. He doesn't recall any criteria for selection other than being a volunteer. He was requested by Mike Baca to go back out to BYD for his second visit, but emphasized that it was, once again, on a voluntary basis. He said there were no specific qualifications stated as a requirement for being selected. He recalled there was a checklist at the BYD location for inspectors to use and said it was based on the "New Flyer" checklist and modified for use with the BYD electric buses. He said that there wasn't much to inspect during his first visit since the company was behind in the assembly process.

He said that he usually arrived at 7:00 am and departed at about 3:30 – 4:00 pm – he kept his "5-8" schedule that he worked in Albuquerque, which was five eight-hour days. He stated during his first visit only Bus #1701 was being assembled, but during his second visit, there were about thirteen buses at various stages on the assembly line. He also said during his second visit, he learned that BYD had expanded their facility and reconfigured the assembly line to accelerate the assembly process – he recalled BYD even had employees working overtime to accommodate the accelerated assembly process.

TD-5 advised that, during his first BYD visit, he coordinated with Ralph Serrano, Project Manager, and during his second visit he coordinated with David Trimbel. He said there were some meetings which he was not permitted to attend during his second trip. As an example, he recalled that Macy Neshati requested him to leave the room in one of the meetings. He assumed the reason was that they would discuss proprietary information.

He shared that there was a lack of communication during the assembly process, between the BYD Quality Control personnel and the BYD supervisors. He said that there were inconsistent instructions provided, that at times were contradictory. He recalled one instance in which there were seals that leaked and he observed "fighting" between BYD personnel – the mechanics didn't want to disassemble the hubs as directed by supervisors. He recalled one specific situation involved the direction to replace an "O-ring" with a new one to stop a leak. He said that used "O-rings" were deformed from prior use and could not effectively stop leaks.

He recalled that he was present for the final assembly testing of buses #1709 and #1710. He was a passenger on bus #1709 for a road test – the bus "died" a half a block into the road test.

He said one of the challenges was that BYD hired inexperienced people and, therefore, had "quality control" issues. He heard of these challenges from various employees who shared the information with each other during what he described as "internal talk."

TD-5 said that he did not complete any documentation other than the inspection checklists. Specifically, he was not involved in the completion of the post-delivery report documentation on the manufacturing of rolling stock as prescribed in 49 CFR 663.37. He said that he was not involved in the completion of the "Bus Acceptance Forms." He was not involved in the configuration audit and wasn't directly involved in ensuring the buses met the City's Technical Summary per the RFP.

He did have daily calls with his supervisors to discuss issues, assembly status and receive instructions. He did not provide photographs of assembly steps to his supervisor during his visits. He provided discrepancies to his supervisor, but was not involved in the "Bus Acceptance Forms" for the "resident inspector final sign off and release authorization" prior to the buses being delivered to the City. He did not complete a "Resident Inspector Report," which was used to identify the inspection activities performed along with the documentation BYD submitted to the City.

He recalled that the bus chassis was shipped from China and that other components came from Canada. While he couldn't provide details, he observed that many of the shipping labels for various components had Chinese characters.

TD-6:

On 9 May 18, TD-6 was interviewed and provided the following information. He is a maintenance supervisor for the City Transit Department and works at the Daytona Transit Facility. He was selected as one of the inspectors for the ART project and traveled to Lancaster, CA, to inspect the electric buses provided by BYD. He previously inspected other buses at other locations. He said unlike his experience inspecting buses manufactured by New Flyer of America, there were no "specs" provided to the inspectors and no "book" provided either, meaning, no manual instructing inspectors on the processes and procedures for inspecting BYD electric buses.

He said that he was a volunteer and placed his name on the "sign-up sheet" that was provided in the maintenance section at the Daytona Transit Facility for inspection volunteers. He traveled to the BYD facility on two occasions – the first time was in September and the second visit was in December 2017. He said that there weren't any "qualifications" to be selected as an inspector, but he did have a mechanical background.

TD-6 said the City didn't provide any inspection instructions for electric buses. He also claimed that he was not instructed on communicating with Transit Department leadership, but knew from his previous experience inspecting New Flyer buses, that he needed to provide daily emails and pictures of the status of the electric buses with his supervisor, Jim Carrillo.

He described a typical day as an inspector, beginning about 8:00 or 9:00 am and ending at either 4:30 or 5:30 pm, with occasional "late nights" as necessary. He said more time was needed to observe the final assembly so that he could observe the wiring processes. He said this was also a time when BYD would "work out the bugs," and address issues that developed from the vibrations created by the driving of the buses to Albuquerque from Lancaster.

He recalled that during his first visit to BYD, there were seven to eight buses on the assembly line, but during his second visit, there were eleven buses. He also recalled that during his first visit he coordinated with Ralph Serrano, but during his second visit, he coordinated with David Trimble.

There were some coordinating challenges for observing testing, such as one instance in which BYD decided to road test Bus #1709 after midnight. He left the facility at 9:00pm after waiting to do the test. He recalled that he only observed one "water test," which was a test to see if water leaked into the bus.

He said that during his first visit to BYD, the expansion of the assembly facility had not yet been completed, but by his second visit, the construction of the new part of the facility was complete and it appeared to him that BYD tried to fill the entire building with electric buses. He recalled a "high turnover rate" that was due to "hiring and firing" processes. He said due to the turnover rate, there were different people that he interacted with on the two visits. He said the employment terminations included BYD supervisors and employees involved on the Quality Control.

He recalled that he only observed one road test, which was for Bus #1710, and he said there were no major issues identified. He also observed a "system validation."

He noted that Serranotook him to lunch at a Mexican restaurant and also provided him with a BYD t-shirt and coffee cup.

He said that all documentation generated during his visit stayed at the BYD facility and he didn't complete any additional documentation when he returned to the City. He advised that he also reported "issues" to Jim Carrillo by email.

TD-6 said that he did not complete any documentation other than the inspection checklists. Specifically, he was not involved in the completion of the post-delivery report documentation on the manufacturing of rolling stock as prescribed in 49 CFR 663.37.

He said while he was not involved in the completion of Bus Acceptance Forms, he did provide inspection feedback through use of the inspection checklists. He was not involved in the "Configuration Audit," which ensured the buses met the "Technical Summary" per the RFP. He said that he did have daily calls with his supervisors to discuss issues, assembly status and receive instructions. He provided photographs of assembly steps to his supervisor during his visits. He provided discrepancies to his supervisor, but was not involved in the "Bus Acceptance Forms" for the "resident inspector final sign off and release authorization" prior to the buses being delivered to the City. He did not complete a "Resident Inspector Report," which was used to identify the inspection activities performed along with the documentation BYD submitted to the City.

He also said that he believed the following items were made in China based on a variety of factors, to include package markings, discussions with BYD personnel, such as a claim by BYD that supply chain parts were "running out."

- Chassis
- Walls
- Drive train
- Axels

- Motor
- Modules

TD-7:

On 12 May 18, TD-7 was interviewed and provided the following information. He is a mechanic for the City Transit Department and works at the Daytona Transit Facility. His mechanical experience includes working on cars, buses and other vehicles. He has been a mechanic for twenty years.

He was selected as one of the inspectors for the ART project and traveled to Lancaster, CA, to inspect the electric buses provided by BYD on two occasions. His first visit was in July 2017 and his second visit was in November 2017. He said that there were apparently, not enough volunteers because he was directly approached for his first visit and requested to sign-up. He said the problem was worse when he traveled the second time, as no one had signed up for that visit, so he was, once again, approached and asked to visit BYD. He said that he experienced problems with getting reimbursed by the City for his travel – it took six months to get reimbursed for his rental car and fuel.

He said that there were no expressed qualifications to serve as an inspector, other than just being a volunteer. He also said that the City didn't provide any literature or written guidelines to be used by the inspectors. He said he was provided with an old stack of inspection checklists for the New Flyer buses that were previously purchased by the City with instructions to take the checklists to BYD. He said about half of the content on the checklists wasn't applicable to the electric buses.

During his second visit to BYD he had a meeting with his manager, Jim Carrillo, and his supervisor, who instructed him to look for "certain things," and provided him with handwritten notes.

He described his typical day as starting about 7:00 am. He usually began his shift by walking through the assembly line and didn't always announce his arrival to BYD officials. He was permitted to take pictures of other buses during his visit. He said he notices that BYD officials tended to "sweep things under the carpet," and provided one example concerning issues with the wiring. He said he would place tape near a problem that he observed in the assembly process, but the tape was gone the next day without the problem being corrected. He shared this concern with Quality Control and Ralph Serrano.

He recalled at a later time, back at the Daytona Transit Facility, there was a welding issue involving cracks. He said the cracks were not discovered until the buses were at the Daytona Transit Facility, because the cracks were covered in the undercoating paint while at the BYD facility. He believed the travel to Albuquerque caused the cracks to become visible. He believed the cracks should have been corrected, as the City sent the buses to a local repair shop to have them fixed.

TD-7 said that he coordinated with Serranoduring his visits at BYD. He recalled that Serrano invited him to lunch on the second day of his visit and paid for the meal.

He said he observed both road and water tests of several buses. He didn't observe any road test problems but all of the water tests revealed leaks, which were corrected.

He said that he was not required to complete any documentation for the City with the exception of the inspection checklists. He said there were no buses to inspect during his first visit, but inspected Bus #1705 during his second visit. He provided daily emails and phone calls to his supervisor, Jim Carrillo and Mike Baca. He said he learned that BYD officials also emailed leadership at the Daytona Transit Facility, but claimed they never received responses. He wasn't sure who the emails were sent to.

TD-7 said that he did not complete any documentation other than the inspection checklists. Specifically, he was not involved in the completion of the post-delivery report documentation on the manufacturing of rolling stock as prescribed in 49 CFR 663.37.

He said while he was not involved in the completion of Bus Acceptance Forms, he did provide inspection feedback through use of the inspection checklists. He was not involved in the "Configuration Audit," which ensured the buses met the "Technical Summary" per the RFP. He said that he did participate in some conference calls and provided daily emails to his supervisors to discuss issues and assembly status. He provided photographs of assembly steps to his supervisor and also provided discrepancies to his supervisor. He said he was not involved in the "Bus Acceptance Forms" for the "resident inspector final sign off and release authorization" prior to the buses being delivered to the City. He did not complete a "Resident Inspector Report," which was used to identify the inspection activities performed along with the documentation BYD submitted to the City.

He believed there were several components manufactured in China based upon responses he received from BYD officials to his questions regarding the assembly process status. Specifically, he said that he was told that "it's on the boat" which he interpreted as the items are being shipped from China. He said this was the response he received regarding status issues with electric lights, seating, seat belts, etc. He said as far he knows, it seemed everything appeared to originate in China based on responses to his questions. He recalled that during his second visit, there were many people at each of the work stations on the assembly line.

TD-8:

On 12 May 18, TD-8 was interviewed and provided the following information. He is a mechanic for the City Transit Department and works at the Daytona Transit Facility.

He said that he was selected as an inspector based on his volunteer status – he put his name on the sign-up sheet. He said there were no established qualifications for the inspectors.

He traveled to the BYD assembly facility on two occasions, in August 2017 and in February 2018. He was advised that the purpose of his visits were based upon the City's requirement to have inspectors at the assembly facility and that he would be the "eyes and ears" for the City. He said that he was told he would need to inspect "everything that was being done." He said that he was instructed to provide emails regarding the assembly status and to provide pictures with the emails on status and issues.

He said he didn't receive any training prior to his visits to BYD. He recalled during his August 2017 visit to BYD there weren't any checklists, but during his February visit, there were "New Flyer" checklists. He recalled during his first visit he examined welds, but wasn't specifically

instructed to examine them as he didn't receive any instructions regarding his inspection role. He said that he conducted the inspections based on his personal knowledge and discretion.

He described his typical day as beginning about 7:00 or 8:00 am (he worked a 40 hour week), and worked eight hours with a half hour lunch. He usually coordinated with Serranoeach day to find out what was scheduled for the day. He communicated each day with his supervisors at DTF. He said that he acted as a conduit between BYD officials and his leadership on certain issues, such as the installation of decals on the buses. He said that he created a "master list" of items to accomplish each day during his first visit to BYD.

During his second BYD visit, he said there were different people at the facility. He continued to provide emails to his leaders at the Transit Department. He worked more than eight hours each day during the second visit. He spent more time on the "floor" during his second visit and discovered "long term" issues that required correction, such as the air in the braking system.

He observed several water tests, but didn't keep records, so estimated he participated in about 10 to 15 of the tests. He said he observed leaks during these tests, but corrections were made and the tests were conducted again. He participated in about six to eight road tests. He said it was important for him to observe these tests to see why buses would fail certain tests in Albuquerque but not in Lancaster – he said it could be due to geographical difference.

He recalled that BYD officials treated him to two meals during his first visit but not during his second visit.

He said that he didn't complete any documentation during his visits with the exception of checklists. He said he brought back a packet of documents from his second trip. He recalled providing six copies of checklists to BYD officials.

TD-8 said that he did not complete any documentation other than the inspection checklists. Specifically, he was not involved in the completion of the post-delivery report documentation on the manufacturing of rolling stock as prescribed in 49 CFR 663.37.

He said while he was not involved in the completion of Bus Acceptance Forms, he did provide inspection feedback through use of the inspection checklists. He was not involved in the "Configuration Audit," which ensured the buses met the "Technical Summary" per the RFP. He said that he did participate in some conference calls and provided daily emails to his supervisors to discuss issues and assembly status. He provided photographs of assembly steps to his supervisor and also provided information regarding discrepancies to his supervisor. He said he was not involved in the "Bus Acceptance Forms" for the "resident inspector final sign off and release authorization" prior to the buses being delivered to the City. He did not complete a "Resident Inspector Report," which was used to identify the inspection activities performed along with the documentation BYD submitted to the City.

He provided specific information about an issue involving hub seal leaks. He recalled that there were still hub leaks even after seals were replaced. He said that BYD tried to understand the cause and how to correct the problems. He believed the leaks were due to engineering issues and occurred at high speeds. He experienced the leaks while in Lancaster, but he recalled six buses were shipped to Albuquerque for which he didn't have any knowledge regarding leak related problems. He believed they were repaired. He also said that he believed the BYD bus frames, axles and the motor modules were all manufactured in China.

TD-9:

On 15 May 18, TD-9 was interviewed and provided the following information. He is a mechanic for the City Transit Department and works at the Daytona Transit Facility.

He was selected to be an inspector for the BYD buses and visited the Lancaster facility in October 2017. He had volunteered to be an inspector and said there was no specific requirements or qualifications to be an inspector other than being a volunteer. He did not receive any specific training or instructions on the function of the inspector or what the processes and procedures should be.

He understood the purpose was to inspect the buses to ensure they complied with the contractual specifications. He believed he saw a copy of the specifications on the desk used by other inspectors at BYD. He said that he inspected bus #1702, but that he wasn't able to accompany BYD employees on the road test.

He said his day typically began at 7:00 am and he would sign-in upon arriving at the customer service counter where there was a tablet configured for employee sign-in and sign-out.

He coordinated with Serranoand other BYD officials on issues that he identified. He said that Serrano had oversight of all buses for the City. He recalled that Serrano treated him to a meal at a restaurant.

He said that he provided daily emails to his supervisor and leaders at the Transit Department, to include Bruce Rizzieri, Dayna Crawford, Jim Carrillo, Mike Baca and Annette Páez. He also had occasional phone calls with Carrillo, who initiated the calls when he had issues to discuss. He said that he wasn't provided with checklists, but took notes of issues that he addressed in the emails.

TD-9 said that he did not complete any documentation other than sending emails to his supervisor and TD leaders. Specifically, he was not involved in the completion of the post-delivery report documentation on the manufacturing of rolling stock as prescribed in 49 CFR 663.37.

He said that he didn't know what a "resident inspector report" was and was not involved in completing it. He said he was never instructed to validate where parts were manufactured, so he didn't examine parts or review documentation that would establish the country of origin. He believed the majority, if not all, parts were manufactured in China and shipped to the United States, which he said would account for the many shipping delays that led to the delayed delivery schedule.

He recalled one of the problems during his inspection visit concerned the manufacturing of a wiring harness. He said the multiplex harness was manufactured at the BYD facility.

He recalled there was a problem involving the dimensions of the bus that impeded wheelchairs from fitting through the bus door. He said BYD had to reconfigure the stanchion to allow the wheels to fit through the door.

He commented that he also believed a contributing factor to the delayed schedule was special requirements for the electric buses which included the requirement to have doors on the street

side for the elevated platforms – he believed this unusual requirement created a learning curve in the manufacturing process.

He did not participate in any road or water tests during his visit. He was not involved with the completion of and never saw the Bus Acceptance Forms. He was not involved in the "Configuration Audit," which ensured the buses met the "Technical Summary" per the RFP. He provided photographs of assembly steps to his supervisor, but never provided a discrepancy list. He said he was not involved in "resident inspector final sign off and release authorization" prior to the buses being delivered to the City. He did not complete a "Resident Inspector Report," which was used to identify the inspection activities performed along with the documentation BYD submitted to the City.

He recalled that Carrillo and Páez had traveled to the BYD facility during his visit. He communicated with Carrillo during this visit on the status of the assembly of the buses.

Finally, he expressed that having two inspectors at BYD would be better, especially following the expansion of the assembly facility to ensure more complete coverage of the assembly process.

TD-10:

TD-10, a non-inspector TD employee, advised that the City's approach to initiating the ART project prior to receiving funding from the federal government was the first time in this person's recollection that City leaders followed this course of action. TD-10 also expressed that the City never should have entered into a contract with BYD, as City leaders knew there were problems with BYD and there were several problems discussed, but there was a culture of "keep your mouth shut," and a "range of issues" with the decision, such as this was the first time that BYD would be manufacturing a 60 foot electric bus. Lastly, TD-10 expressed concern that the ART project primary contractor, BSC routinely provided refreshments at meetings with City officials, in violation of ethical guidelines.

Assistant Maintenance Manager:

Michael James Baca
Assistant Maintenance Manager
Transit Department
City of Albuquerque

On 9 May 2018, Michael James Baca, Assistant Maintenance Manager, Transit Department (TD) was interviewed regarding his knowledge of the ART project, as it pertained to the purchase of the BYD electric buses, and provided the following information.

He has been employed by COA since May 2011 and as the current Assistant Maintenance Manager, he also rotates "Acting Maintenance Manager" duties with Nolan Meadows, Fleet Analyst, TD.

He said that he set up all travel for the TD inspectors assigned to the Daytona Transit Facility (DTF) who went to Lancaster, CA, to inspect the manufacturing processes of the electric buses at the BYD facility. He worked with Veronica Barela, Department of Finance and Administration Services, COA. The purpose of the travel was to adhere to the Federal Transit Administration's

(FTA) requirement to have onsite inspectors at the bus manufacturing facility since the City had requested federal funding. Former Maintenance Manager, Jim Carrillo, instructed Baca to coordinate and arrange for the travel. He said the process for selecting TD employees was to request volunteers who had experience working on buses, which included employees who were mechanics, those with body shop experience and supervisors.

For training, he said that a checklist was provided to inspectors to complete during their time at the BYD facility. He provided several copies of the checklist to the first inspector who traveled to the BYD facility and instructed him to leave them at the facility for future inspectors. He said the checklists were the same ones used for the purchase of buses from New Flyer, but were modified for use with the BYD electric buses. While there was no formal training of inspectors, he did keep inspectors informed of the common issues involving the buses.

He said that there were four buses at BYD that still were going through the manufacturing process. In February, the City contracted with TRC Engineering to complete the remaining inspections. He said that he had heard that the Mayor's office decided to have the remaining buses inspected by an outside company rather than City employees continue with the inspection.

Baca provided a copy of the inspection sheet for Bus #1701 completed by the inspectors while they were in Lancaster. He said in addition to the checklists, inspectors communicated with him and other TD leaders on a daily basis, to include addressing the movement of buses from station to station.

Baca advised that he was transferred to the DTF in April 2017 at which time he became responsible for overseeing the BYD project on behalf of TD. He said that part of this responsibility was to be involved in the weekly status meetings with BYD. He said that BYD was behind the delivery schedule and offered various excuses each week for the delays. He said the original delivery completion date was 4 October 2018, and as of the day of this interview, 9 May 2018, there were still 15 buses that have not been "accepted" from BYD. He said that he's heard other criticisms about BYD from other "vendors" in the "community."

Baca advised the City was not in compliance with the below excerpt taken from the BAA Post-Delivery Audit Report, page 11, Section IV. Post-Delivery Purchaser's Requirements Certification, Resident Inspector Requirements, 49 C.F.R. § 663.37 (b), paragraph five:

> ABQ Ride's Maintenance Manager completed the verification process of BYD's technical specifications, as submitted in the RFP, and were found to be in compliance with the CITY's solicitation specifications.[22]

Finally, he said regarding the below excerpt from the BAA Audit report, page 12, paragraph three, that the inspectors did complete inspection sheets, but not all of them were sent to the DTF – several remained at BYD. He said these reports were supplemented with phone calls from the inspectors.

> As stipulated in 49 CFR 663.37, the Post-Delivery Purchaser's Requirements Certification is supported by the presence of CITY's inspector, resident inspector's report and the verification and results of visual inspections and quality control test sheets.[23]

[22] Buy America Post-Delivery Audit Report, Page 11.
[23] Id, Page 12

Deputy Director:

Annette S. Páez
Deputy Director
Transit Department
City of Albuquerque

On 16 May 2018, Annette S. Páez, Deputy Director, Transit Department, was interviewed regarding her role and knowledge as it pertained to the ART project, to include both the BYD procurement of buses and the construction of the nine-mile corridor of the ART bus route on Central Avenue.

Páez advised that Dayna Crawford was the prior to Deputy Director was moved into a classified position in the grade of E-20 in May 2017. Páez has been in her position as the Assistant and now Deputy Director of Transit since 2012. She said that she has been employed with the City for 25 years, of which 24 years has been in the Transit Department.

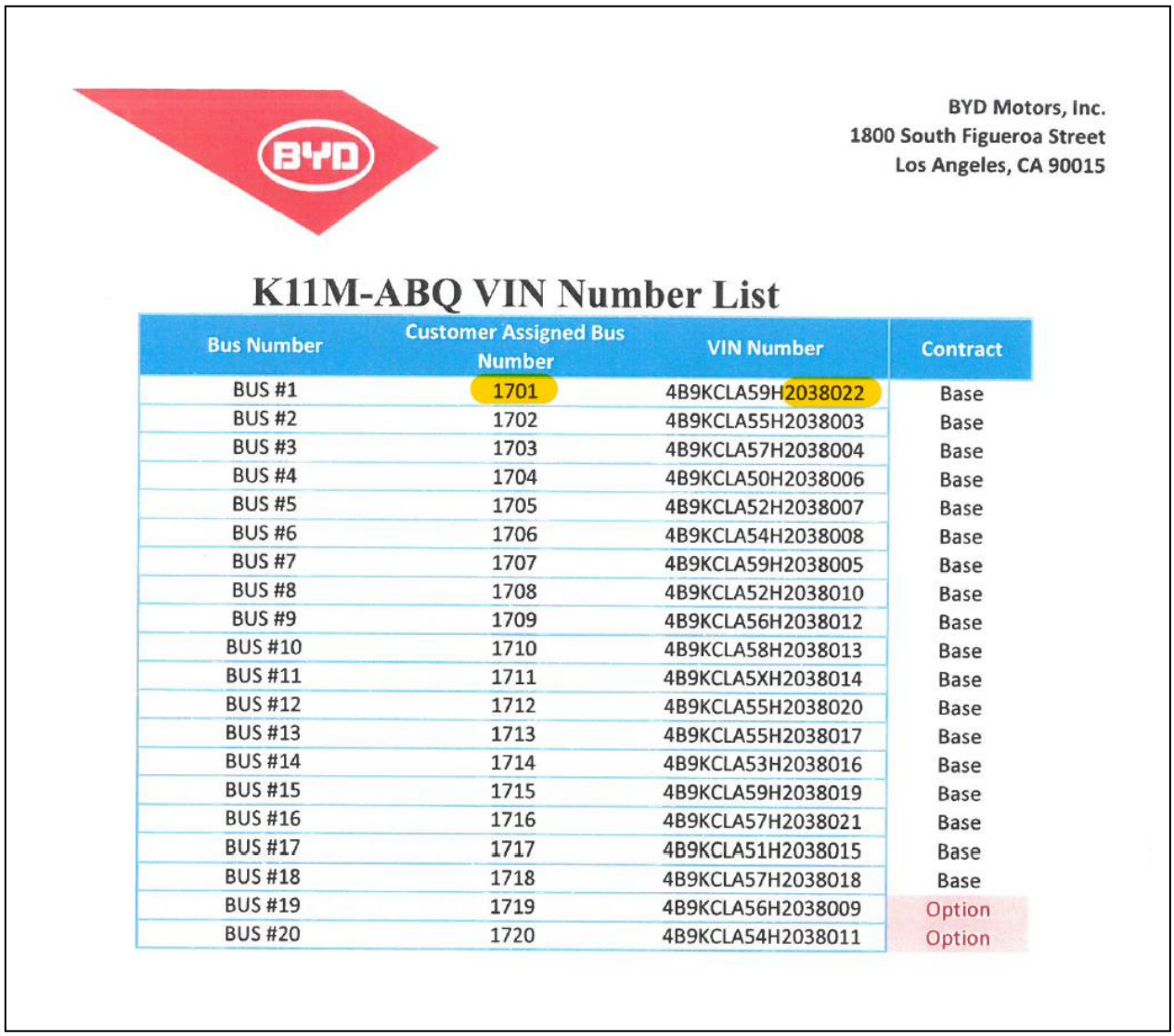
She said that the City leaders began discussing and planning the concept of the ART project in 2012. She was not involved in the early discussions and only got more involved in the project more recently. She attended ART project meetings in 2016 and 2017. She became more operationally involved as it pertained to the electric buses. She said she collaborated with writing the specifications for the RFP. She was not on the Ad Hoc Selection Committee and was later pulled back from the ART project when the current Mayor assumed office in December 2017, which is also when she became the Acting Director of TD.

Páez said that she was not involved in the funding aspect of the ART project, but said that Bruce Rizzieri, Dayna Crawford, Chris Payton, Michael Riordan and Robert Perry were involved in aspects of the funding, to include decision making on funding sources. She didn't have any direct knowledge of funding streams, but did hear conversations being held, which included Payton, Crawford and Rizzieri.

She advised that both she and Carrillo had discovered in approximately June 2017 that bus #1701 had the chassis that was designed for the AVTA, along with different windows as well. She said that this information was provided to City leaders who eventually reached an agreement with BYD to have the bus sent to the City on a loan basis. That bus was eventually used for transporting residents to the "River of Lights" display at the Botanical Gardens and used by elected leaders for the publicity event. See VIN list below.

Páez said that the City did not complete a "Resident Inspector Report," as asserted in the BAA Audit that was completed by GI.

She advised that the Americans with Disabilities Act deficiencies have been corrected and that the project is close to being compliant if not already compliant. She advised that TD has reached out to the American's with Disabilities Act Advisory Council (ADAAC) and the New Mexico Commission for the Blind (NMCB). This topic is addressed in more detail in the section on the ADA later in the report.



BYD Motors, Inc.
1800 South Figueroa Street
Los Angeles, CA 90015

K11M-ABQ VIN Number List

Bus Number	Customer Assigned Bus Number	VIN Number	Contract
BUS #1	1701	4B9KCLA59H2038022	Base
BUS #2	1702	4B9KCLA55H2038003	Base
BUS #3	1703	4B9KCLA57H2038004	Base
BUS #4	1704	4B9KCLA50H2038006	Base
BUS #5	1705	4B9KCLA52H2038007	Base
BUS #6	1706	4B9KCLA54H2038008	Base
BUS #7	1707	4B9KCLA59H2038005	Base
BUS #8	1708	4B9KCLA52H2038010	Base
BUS #9	1709	4B9KCLA56H2038012	Base
BUS #10	1710	4B9KCLA58H2038013	Base
BUS #11	1711	4B9KCLA5XH2038014	Base
BUS #12	1712	4B9KCLA55H2038020	Base
BUS #13	1713	4B9KCLA55H2038017	Base
BUS #14	1714	4B9KCLA53H2038016	Base
BUS #15	1715	4B9KCLA59H2038019	Base
BUS #16	1716	4B9KCLA57H2038021	Base
BUS #17	1717	4B9KCLA51H2038015	Base
BUS #18	1718	4B9KCLA57H2038018	Base
BUS #19	1719	4B9KCLA56H2038009	Option
BUS #20	1720	4B9KCLA54H2038011	Option

Grants Management Analyst:

Cassandra D. Gutierrez
Grants Management Analyst
Transit Department
City of Albuquerque

On 16 May 2018, Cassandra D. Gutierrez, Grants Management Analyst, TD, was interviewed regarding her knowledge of the ART project and procurement of the BYD buses. She said that she engages with the Federal Transit Agency (FTA) on matters involving the City's applications for Transit Department grants. Specifically, she said that she was also involved with procurements when they involved grants. She said with regard to the BYD buses, the City didn't complete a "Resident Inspector Report," as referred to in the BAA Audit Report.

Benchmark: Denver Regional Transportation District

John Dawson
Buyer, Denver Regional Transportation District
Denver, CO

On 15 May 2018, John Dawson, Denver Regional Transportation District (DRTD), CO, was contacted to ascertain his knowledge regarding BYD and any "best practices" that his agency used to protect the agency and taxpayer.

He confirmed that DRTD did procure 36 45-foot electric buses from BYD, Lancaster, CA. He said that the philosophy of DRTD is to avoid use of federal funds when possible so that the organization avoids some of the federal conditions on use of the funds, which he said included the Buy America Act.

Even though the BAA didn't apply, DRTD still ensures there are inspectors on-site to ensure that the buses are built to specifications and that there are no quality related problems. He said that DRTD incorporated the cost of having full time in-residence inspectors at BYD, which he described as the cost of lodging and per diem. He also said that the inspectors DRTD employees who are hired for only that purpose and are qualified based on their experience as an inspector.

He said that BYD "over promised and underperformed," which he clarified by stating BYD was one year behind in their delivery schedule. He said that DRTD negotiated compensation for the late delivery of buses through extended warranties and the provision of various items to include spare motors, controllers and other parts.

Note: City BYD inspectors had asserted that the DRTD had purchased electric buses from BYD and had full time in-resident inspectors at the BYD facility in Lancaster. For this reason, John Dawson was contacted to ascertain his knowledge regarding BYD and any "best practices" that his agency used to protect his agency.

(Intentionally left blank)

Procurement Integrity: Ethics and Objectivity

Objectivity:

Procurement objectivity is essential in the acquisition process, especially in the source selection and subsequent contract administration phases. During the course of this inspection, steps were taken to determine if the pre-award phase and contract administration phase incorporated best practices to ensure there wasn't actual or apparent favoritism, biases or partiality in the selection process for both the construction contractor and the bus manufacturer.

The City uses "Ad Hoc Advisory Committees," (AHAC) which are also referred to as "evaluation committees" and "source selection committees" by other government organizations. The purpose of using a committee approach is to avoid placing too much influence in one person, and therefore ensuring greater procurement integrity. Such committees are used to evaluate cost and technical requirements. Therefore, it is important to ensure there are qualified members who have a cost or relevant technical background. Additionally, such committees usually make recommendations to the decision makers, so generally committees should not be comprised of top level officials, but rather technically experienced personnel and from a cross section of backgrounds. Both of the committees used in the City were comprised of political appointees or their deputies, as addressed below.

The City provides minimal guidance or criteria on the selection of members for the AHAC. In fact, the only guidance the City provides on selection of members is found in Article 5: Public Purchases, § 5-5-30 Competitive Sealed Proposals, paragraph (4) of the City's Code of Ordinances:

> "The Mayor shall name an ad hoc advisory committee to evaluate proposals. The committee shall include as one of its members a representative from the department or agency requesting the purchase."

Other government organizations, at all levels, provide more robust and detailed guidance. As an example, the City of Cincinnati's guidance consists of two pages, with a partial excerpt below:

> **Appointing an Evaluation/Selection Committee**
>
> The evaluation committee should be composed of a minimum of three individuals who are stakeholders in the final product or service, and/or individuals who have the necessary technical or program expertise. When a City department director proposes individuals to the Chief Procurement Officer and the City Manager to form an evaluation committee for a particular procurement, he or she should do so with the following general factors in mind:
>
> - The relevance of the individual's education and experience to the subject matter of the solicitation;
> - The possibility that a superior could directly or indirectly influence the manner in which a subordinate may vote;
> - The amount of time the individual would potentially be able to dedicate to the task relative to the amount of time needed to complete it; and
> - The possibility of any conflicts of interest with respect to the individual's relationship to potential vendors. The individual must have the ability to maintain

> total impartiality throughout the selection process, as well as to focus on what is most advantageous for the City and not merely his or her own departments or individual perspectives.[24]

Of particular note, the second bullet of Cincinnati's guidelines addresses the concern of having members that are "superior" to other members, which was the situation with both committees for the ART project, as described more specifically later.

To fairly assess the selection process for the two contractors, the pre-award process was examined for the selection of BSC and BYD.

Selection of Construction Contractor:

The City advertised a RFP for the construction project using a "Construction Manager at Risk" (CMAR) with a deadline date of 13 October 2015, for receipt of proposals. The RFP also required the offeror to provide a "Proposal Bond" in the amount of five percent of $65 million, which was the "Maximum Allowable Construction Cost" (MACC). The purpose of the bond was to represent "…verification that the MACC is adequate and that the proposal is a good faith offer for consideration of a contract to perform the Pre-Construction Services and Construction Services."[25]

The RFP defines CMAR and Construction Manager at Risk Delivery Method as follows:

> **"Construction Manager at Risk"** ***(CMAR)*** means a person who, pursuant to a contract with a governing body, provides the preconstruction services and construction management required in a construction manager at risk delivery method.[26]
>
> **"Construction Manager at Risk Delivery Method"** means a construction method for an educational facility wherein a construction manager at risk provides a range of preconstruction services and construction management, including cost estimation and consultation regarding the design of the building project, preparation and coordination of bid packages, scheduling, cost control, value engineering, and while acting as the general contractor during construction, detailing the trade contractor scope of work, holding the trade contracts and other subcontracts, pre-qualifying and evaluating trade contractors and subcontractors and providing management and construction services, all at a guaranteed maximum price for which the construction manager at risk is financially responsible. The CMAR must submit a Proposal Bond with their Offer, and shall submit Payment and Performance Bonds for Construction, as may be required per final contract.[27]

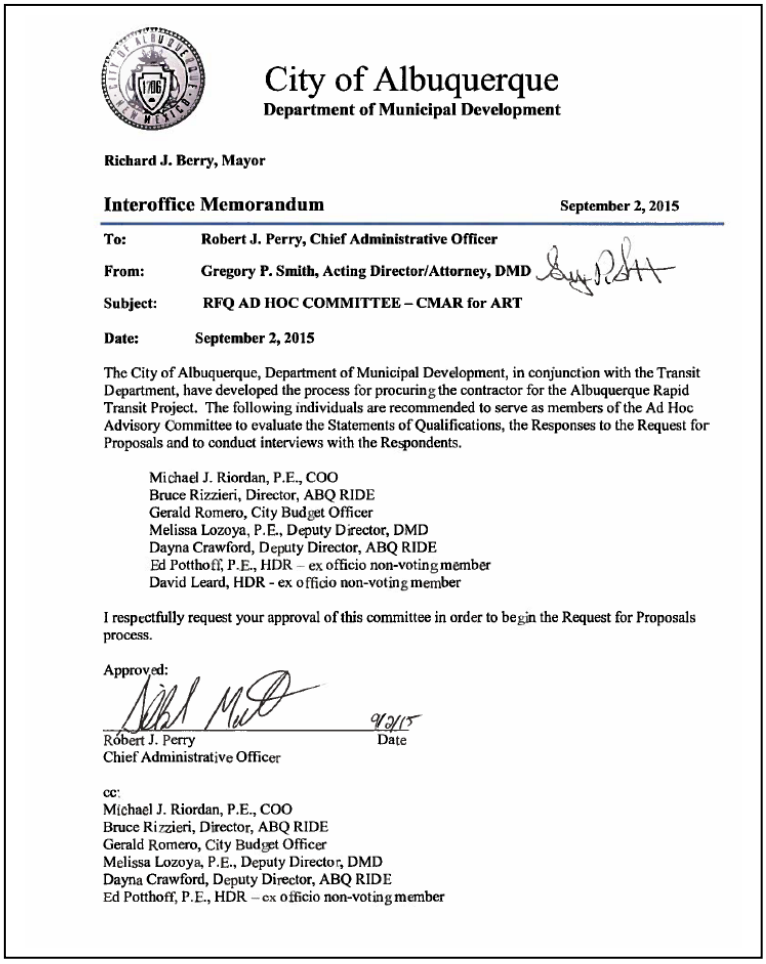
[24] City of Cincinnati Request for Proposal Manual For The Metropolitan Sewer District of Greater Cincinnati, January 28, 2016
[25] City of Albuquerque, Request for Proposal for Construction Manager at Risk Bidding and General Requirements," page 6.
[26] Ibid, page 6
[27] Ibid, page 7

ART Project Ad Hoc Source Selection Committee:

A review of the Interoffice Memorandum, dated February 16, 2016, pertaining to the "RFQ AD HOC COMMITTEE – CMAR for ART" identified the following five individuals who were selected and approved as members of the committee:

Michael J. Riordan, P.E. COO
Bruce Rizzieri, Director, ABQ Ride
Gerald Romero, City Budget Officer
Melissa Lozoya, P.E., Deputy Director, DMD
Dayna Crawford, Deputy Director, ABQ Ride

Non-Voting Members:
Ed Potthoff, P.E. HDR
David Leard, HDR



City of Albuquerque
Department of Municipal Development

Richard J. Berry, Mayor

Interoffice Memorandum September 2, 2015

To: Robert J. Perry, Chief Administrative Officer

From: Gregory P. Smith, Acting Director/Attorney, DMD

Subject: RFQ AD HOC COMMITTEE – CMAR for ART

Date: September 2, 2015

The City of Albuquerque, Department of Municipal Development, in conjunction with the Transit Department, have developed the process for procuring the contractor for the Albuquerque Rapid Transit Project. The following individuals are recommended to serve as members of the Ad Hoc Advisory Committee to evaluate the Statements of Qualifications, the Responses to the Request for Proposals and to conduct interviews with the Respondents.

Michael J. Riordan, P.E., COO
Bruce Rizzieri, Director, ABQ RIDE
Gerald Romero, City Budget Officer
Melissa Lozoya, P.E., Deputy Director, DMD
Dayna Crawford, Deputy Director, ABQ RIDE
Ed Potthoff, P.E., HDR – ex officio non-voting member
David Leard, HDR - ex officio non-voting member

I respectfully request your approval of this committee in order to begin the Request for Proposals process.

Approved:

9/3/15
Robert J. Perry Date
Chief Administrative Officer

cc:
Michael J. Riordan, P.E., COO
Bruce Rizzieri, Director, ABQ RIDE
Gerald Romero, City Budget Officer
Melissa Lozoya, P.E., Deputy Director, DMD
Dayna Crawford, Deputy Director, ABQ RIDE
Ed Potthoff, P.E., HDR – ex officio non-voting member

The memorandum was signed on 2 September 2015, by what appears to be the signature of an unidentified person on behalf of Robert J. Perry, Chief Administration Officer (CAO).

Review: Construction Ad Hoc Committee Score Cards:

On 10 Sep 2015, the five member Ad Hoc Committee for the ART construction project evaluated proposals from BSC and Kiewit, the only two companies that were "short listed." Overwhelmingly, all five committee members rated Kiewit higher than BSC on the following evaluation factors:

- Past Performance of the Offeror in Completing CM at Risk
- Past Performance in completing similar projects
- Presentation of Project Team
- Concept of the Proposal
- Ability of the Offeror to Meet Time & Budget Requirements
- Offeror's Exp. & Utilization of Subs and Material Suppliers in NM
- Recent, Current & Projected Workloads

Total Scores:
BSC: 180
Kiewit: 220

Review: Bid Opening Data Sheet

A review of the "Bid Opening Data Sheet" dated 20 Nov 2015 disclosed that Kiewit was determined to be "non-responsive" due to their failure to submit the "Proposal Bond" as required

by the RFP and previously described in this report. Kiewit provided correspondence to the City requesting that the City reconsider the requirement to require the Proposal Bond. The City did not withdraw that requirement.

Review: Letter to Kiewit

On 30 Nov 2015, Chief Administration Officer Rob Perry provided written notification to Kiewit that the City "…has examined the proposals submitted November 17, 2016 for the Albuquerque Rapid Transit project. Pursuant to 9.2 of the Regulations Governing the Award and Rejection of Bids/Offers and Debarment of Contractors for Public Works Projects, the Kiewit proposal is deemed non-responsive…" The letter continues to address that reason for being deemed "non-responsive" was Kiewit's failure to contain a "Proposal Bond" and was "conditional."

Review: Letter to BSC

On 1 Dec 2015, CAO Perry provided a written "Notice of Award" to BSC, officially notifying the company that the City had selected them for the ART Project #P631992, for the preconstruction services phase in the amount of $400,000.

Review: Letter to BSC

A "Notice to Proceed" was provided to BSC with a contract award date of 1 December 2015 and a contract start date of 17 October 2016, in the amount of $78,754,601.98, and a completion date of 8 February 2017, and 480 days allowed to complete the contract. The notice was signed by the following individuals:

Paula Dodge Kwan, P.E., DMD
Dave Harrison, DMD
James K. Hamel, CIP Official, DMD
Melissa Lozoya, P.E., Acting Director, DMD
Ed Pothoff, P.E., HDR Engineering
Tylee Nunn, Sr. PM, Contractor Representative

Selection of Construction Contractor:

The City advertised a Request for Proposals with a deadline for submissions of 8 March 2016 (Mountain Time), and a pre-proposal conference scheduled for 18 February 2016. Two suppliers were considered responsive and placed on the "short list" for consideration by the AHAC – they were New Flyer of America and BYD.

Ad Hoc Advisory Committee for the Electric Articulated Bus Manufacturer:

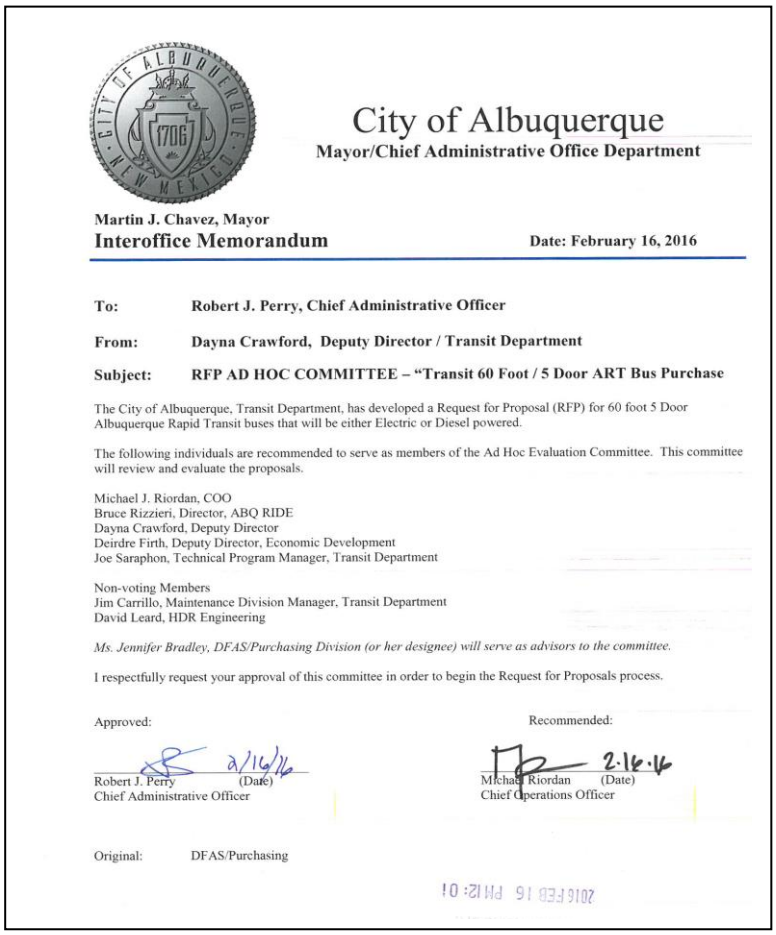
There were distinct processes used by the City to select the manufacturer for the electric buses for use in the ART lanes and the primary contractor for the construction of the dedicated ART lanes.

Bus Ad Hoc Source Selection Committee:

A review of the Interoffice Memorandum, dated February 16, 2016, pertaining to the "RFP AD HOC COMMITTEE – Transit 60 Foot/5 Door ART Bus Purchase" identified the following five individuals who were selected and approved as members of the committee:

Michael J. Riordan, COO
Bruce Rizzieri, Director, ABQ Ride
Dayna Crawford, Deputy Director
Dierdre Firth, Deputy Director, Economic Development
Joe Saraphon, Technical Program Manager, TD

Non-Voting Members:
Jim Carrillo, Maintenance Manager, TD
David Leard, HDR Engineering



City of Albuquerque
Mayor/Chief Administrative Office Department

Martin J. Chavez, Mayor

Interoffice Memorandum **Date: February 16, 2016**

To: **Robert J. Perry, Chief Administrative Officer**

From: **Dayna Crawford, Deputy Director / Transit Department**

Subject: **RFP AD HOC COMMITTEE – "Transit 60 Foot / 5 Door ART Bus Purchase**

The City of Albuquerque, Transit Department, has developed a Request for Proposal (RFP) for 60 foot 5 Door Albuquerque Rapid Transit buses that will be either Electric or Diesel powered.

The following individuals are recommended to serve as members of the Ad Hoc Evaluation Committee. This committee will review and evaluate the proposals.

Michael J. Riordan, COO
Bruce Rizzieri, Director, ABQ RIDE
Dayna Crawford, Deputy Director
Deirdre Firth, Deputy Director, Economic Development
Joe Saraphon, Technical Program Manager, Transit Department

Non-voting Members
Jim Carrillo, Maintenance Division Manager, Transit Department
David Leard, HDR Engineering

Ms. Jennifer Bradley, DFAS/Purchasing Division (or her designee) will serve as advisors to the committee.

I respectfully request your approval of this committee in order to begin the Request for Proposals process.

Approved: Recommended:

2/16/16 2.16.16

Robert J. Perry (Date) Michael Riordan (Date)
Chief Administrative Officer Chief Operations Officer

Original: DFAS/Purchasing

2016 FEB 16 PM 12:01

The memorandum indicated recommendation of these individuals by Michael Riordan, Chief Operations Officer (COO) who signed the memorandum on 16 February 2016 and the memorandum was approved and signed by Robert J. Perry, Chief Administration Officer (CAO) on 16 February 2016.

Review: Bus Ad Hoc Committee Score Cards:

Only two committee members placed their names the score cards. Some cards had the dates of March 29, 2016 (Rizzieri) and March 27, 2016 (unknown). The remaining cards didn't have either a name, date or both items were missing. As stated earlier, the score cards were only for two manufacturers – New Flyer of America and BYD. Overall, the committee rated BYD higher than New Flyer of America based on the following evaluation factors:

- Offeror's Technical Proposal Requirements as described in Section 2.1 of this RFP and plans to meet the requirements of the RFP
- Offeror's detailed plans to meet the objectives of each task, activity, etc. on the required Delivery Schedule as described in Section 2.1.3 of this RFP

- Experience and qualifications of the Offeror and personnel as shown on staff resumes to perform tasks described in Part 3, Scope of Services
- Adequacy of proposed Project Management Plan as described in Section 2.1.3 of this RFP resources to be used by the Offeror
- Offeror's past performance on projects of similar scope and size
- Overall ability of the Offeror, as judged by the evaluation committee, to successfully deliver the Contract Deliverables within the proposed Delivery Schedule. This judgement will be based upon factors such as the Project Management Plan and availability of staff and resources.

Total Scores:
New Flyer of America: 3,300
BYD: 4,380

Ethics:

During the inspection process, there was information developed that indicated possible violations of the City's Code of Ordinances and the Federal Acquisition Regulation. Excerpts from the applicable sections are inserted below for reference purposes.

Chapter 5, § 5-5-22 Ethical Conduct, paragraph:

> (D) Gratuities and kickbacks.
>
> (1) It shall be unlawful for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.
>
> (2) It shall be unlawful for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

City of Albuquerque Procurement Handbook Ethical Conduct Language:

> **Gratuities.** It shall be unlawful for any vendor to offer, give, or agree to give any employee or former employee, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

Federal Acquisition Regulation:

3.101-2 -- Solicitation and Acceptance of Gratuities by Government Personnel.

As a rule, no Government employee may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who (a) has or is seeking to obtain Government business with the employee's agency, (b) conducts activities that are regulated by the employee's agency, or (c) has interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Certain limited exceptions are authorized in agency regulations.

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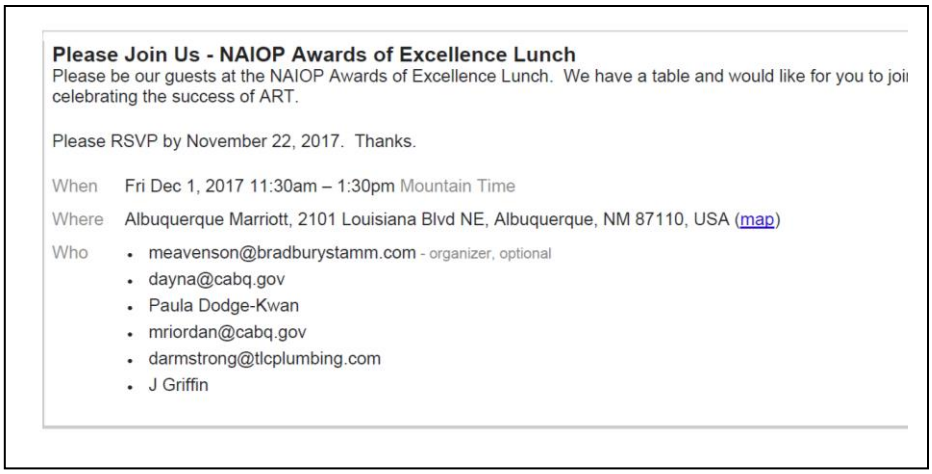
Interviews of City employees and reviews of documents indicated that there were instances in which BYD officials provided free meals to City inspectors and instances in which BSC provided meals, refreshments and other items of value to City officials, to include both elected and appointed leaders. Two examples of such events include the "NAIOP" Awards of Excellence Lunch, as represented in the below event invitation. The other social event called "ART Start Celebration" that was sponsored by BSC, which was held on the evening of Saturday, 25 November 2018, just five days before the new Mayor assumed office. See the two page agenda below for details. Arguably, the value of meals and other items may be considered de minimis, but the collective value expended by the contractors would be considerably more than the value by any single City employee that received the gratuity, which is of concern with regard to the contractors' compliance with both the City and Federal ethics guidelines. Additionally, it's important to avoid even the appearance of ethical violations and partiality.



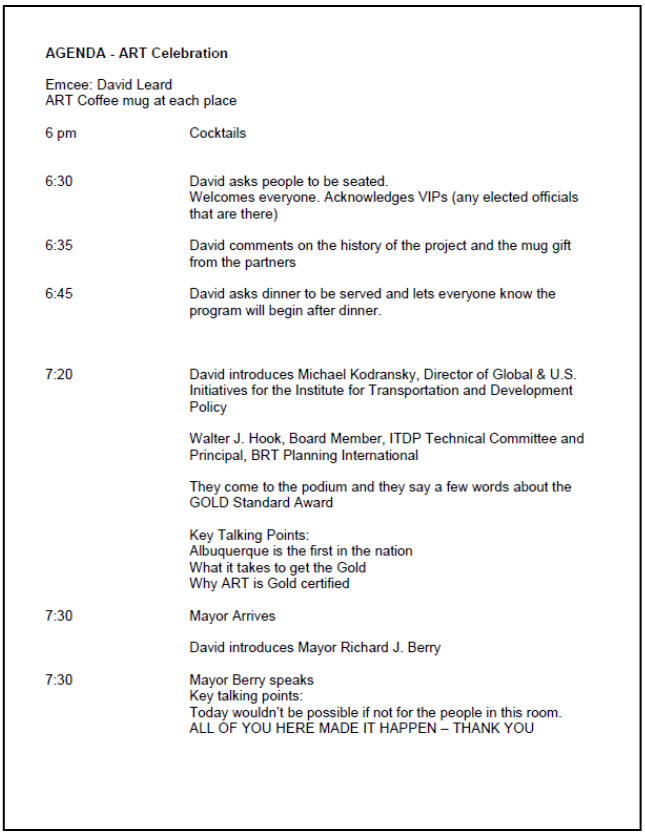
Please Join Us - NAIOP Awards of Excellence Lunch
Please be our guests at the NAIOP Awards of Excellence Lunch. We have a table and would like for you to joi
celebrating the success of ART.

Please RSVP by November 22, 2017. Thanks.

When Fri Dec 1, 2017 11:30am – 1:30pm Mountain Time

Where Albuquerque Marriott, 2101 Louisiana Blvd NE, Albuquerque, NM 87110, USA (map)

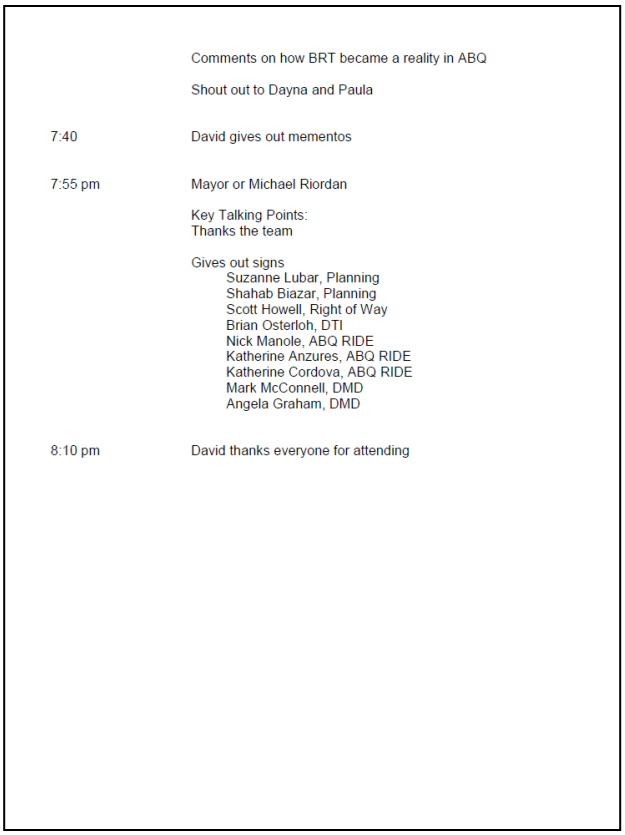
Who
- meavenson@bradburystamm.com - organizer, optional
- dayna@cabq.gov
- Paula Dodge-Kwan
- mriordan@cabq.gov
- darmstrong@tlcplumbing.com
- J Griffin



AGENDA - ART Celebration

Emcee: David Leard
ART Coffee mug at each place

6 pm	Cocktails
6:30	David asks people to be seated. Welcomes everyone. Acknowledges VIPs (any elected officials that are there)
6:35	David comments on the history of the project and the mug gift from the partners
6:45	David asks dinner to be served and lets everyone know the program will begin after dinner.
7:20	David introduces Michael Kodransky, Director of Global & U.S. Initiatives for the Institute for Transportation and Development Policy Walter J. Hook, Board Member, ITDP Technical Committee and Principal, BRT Planning International They come to the podium and they say a few words about the GOLD Standard Award Key Talking Points: Albuquerque is the first in the nation What it takes to get the Gold Why ART is Gold certified
7:30	Mayor Arrives David introduces Mayor Richard J. Berry
7:30	Mayor Berry speaks Key talking points: Today wouldn't be possible if not for the people in this room. ALL OF YOU HERE MADE IT HAPPEN – THANK YOU



	Comments on how BRT became a reality in ABQ Shout out to Dayna and Paula
7:40	David gives out mementos
7:55 pm	Mayor or Michael Riordan Key Talking Points: Thanks the team Gives out signs Suzanne Lubar, Planning Shahab Biazar, Planning Scott Howell, Right of Way Brian Osterloh, DTI Nick Manole, ABQ RIDE Katherine Anzures, ABQ RIDE Katherine Cordova, ABQ RIDE Mark McConnell, DMD Angela Graham, DMD
8:10 pm	David thanks everyone for attending

Observations, Recommendations & Conclusion

Observations:

1. The City funded the construction of ART in part using funds derived from GO Bonds that taxpayers intended to be used for other projects based on the bond descriptions at the polling booths. The City's bond counsel advised that 85% of bond funds need to be expended within three years and 100% by five years for IRS tax exemption.

2. The City expended possible restricted funds without a federal grant agreement in place. Should the federal government not provide a grant to reimburse the funds used, there will be considerable financial ramifications. The City may not have followed GASB standards for accountability regarding restricted funds and avoiding "negative cash" flows. The City does not have a contingency plan should the federal government fail to provide the anticipated $75 million.

3. On 30 May 2018, FTA Region 6 advised that federal funding could not be used for the electric buses until a bus completed and passed the Altoona Testing in Pennsylvania and the remaining buses were modified to match the bus that passed testing. On 30 May 2018, the Assistant Maintenance Manager, DTF, advised that a bus was at the Altoona Testing site in Pennsylvania, but testing has not started on the bus. He said the testing is expected to begin within the next week. He said that the testing for diesel buses typically last about 13 months, but testing for the electric bus will probably require additional time due to the need to recharge the batteries. Therefore, it appears that federal funds for the buses will be delayed a minimum of 13 more months for the testing and additional time for the remaining 19 buses to be modified.

4. There were several quality issues that impacted buses and may have contributed to the delay in delivering buses. The City has been engaged with BYD to address the problems and also is considering options to ensure there is proper and fair contractual consideration.

5. Typically, the first item that is provided by a contractor should be the "First Article" that is used by the purchaser to assess and determine if there was compliance with all specifications. This did not occur in the purchase of the BYD buses and in fact, City officials knowingly "accepted" a bus that was manufactured on a platform and to the specifications of a bus intended for the AVTA, with the intent of using the bus for public relations, which included a publicity event involving the former Mayor and other publicly elected leaders and officials. This was not within the contract and may have contributed to the further delay of receiving buses that complied with the contract. As indicated in the report, this was described as a "loan." However, the BAA Audit report characterizes the bus as the "first production bus in the order, VIN 38022, which was delivered to the City on August 7, 2017."

6. The Mayor addressed the public shortly after beginning his term regarding several challenges with the buses (including the batteries) and construction from both an ADA and non-conformance perspective; BSC has corrected most of the ADA issues and continues to correct non-compliant situations.

7. The inspection disclosed concerns with the BAA Audit Report in that there are assertions and references to documents that do not exist, to include the "Resident Inspector Report." This is problematic that there were certifications appended to the Report that affirmed the report existed and that the City had inspectors validating the BAA status.

8. The City's approach to providing inspections of the assembly process did not appear to be sufficient and lacked continuity. The City did not establish selection criteria based on the complexities of conducting inspections of a new product – electric buses, but rather selected employees who volunteered to travel for a two week period. The City did not provide any formal training and did not develop an inspection checklist specifically for the electric buses. The City did not develop a manual or guide for use by the inspectors during the inspection process.

9. The City awarded several contracts to complete the ART project, with the two most significant contracts being awarded to BYD for the electric buses and BSC for the construction. The City used solicit offerors using an RFP and then selected the contractors using an "Ad Hoc Advisory Committee" (commonly referred to as a selection or evaluation committee). In a "post-TASER" environment (a prior OIG investigation focused on allegations of favoritism and conflicts of interest involving a former police chief for the APD and TASER, the company that provided on-body cameras to APD), it is important to go great lengths to ensure there is not even the appearance of partiality, biases and undue influence in the selection processes. The inspection disclosed that both Ad Hoc Advisory Committees included high level City appointed officials and deputy directors to the appointed officials, rather than including more disinterested, but technically qualified, members, such as professors for the local universities, members from City commissions, and officials from county or state agencies that have similar services.

10. The inspection disclosed concerns regarding ethics and impartiality in the contract administration process. A senior official at BYD purchased at least one meal for almost all inspectors and even twice for one inspector. While the value of the meal from the point of view of the inspector may have been de minimis, the value of funds expended by the BYD official were significantly more in the aggregate and furthermore, blurs the line of avoiding even the appearance of impartiality in the inspection process.

11. In addition to the prior observation, inspection activity revealed that BSC provided meals and other items free of charge to senior level City officials, to include an elected official and appointed official. As before, while any individual meal may have been considered de minimis to the employee, in the aggregate, the cost to BSC was potentially substantial considering the venue. Again, it is important for both City employees and contractor personnel to go to extreme lengths to avoid the appearance of biases, conflicts and partiality. This is especially true given the contract was ongoing at the time and most likely, BSC will compete for future contracts.

Recommendations:

1. The City should be cautious when using funds derived from legislation established by voters and tax payers, where IRS rules also apply and where there is risk such funds will not be reimbursed.

2. The City should avoid situations where there is unreasonable risk associated with using funds restricted for other uses and minimize projects that do not have a grant agreement in place.

3. The City should exercise due diligence before awarding future contracts to companies that are untested and pose more than a reasonable risk, such as the problems with BYD and their efforts to establish themselves in the United States market, but that provide an unknown risk.

4. The City should ensure that when purchasing items such as buses and other vehicles, that there is a "first article" to properly inspect for compliance with contract specifications.

5. The City should include the City's own ADA Advisory Council more frequently on CIP projects, to ensure that the federal ADA related civil rights are incorporated.

6. The City should ensure for future contracts requiring BAA compliance that all required conditions and documents are met and properly completed.

7. The City should consider the DRTD inspection model, which is also similar to the Department of Defense's "Defense Contract Management Agency" model, is incorporated into the City's procurement processes and codified in the Procurement Ordinance. Additionally, the City should consider centralizing all procurement, contract administration and quality assurance into a Department level organization that has central authority for each of these functions. This would ensure continuity and comprehensive oversight, contributing to efficiencies and cost reduction. This would free up other Departments to focus on the primary mission of that Department.

8. As addressed above, not only should the City consider replacing outdated and fragmented procurement rules spread across several departments, but the City should also adopt more formal rules and guidance on source selection – the City of Cincinnati has a good model for this process.

9. The City should also have a more restrictive and clearer ethics code that also required annual training and certifications signed by employees. The rules should also be stricter for contractors and vendors and require their certifications as a prerequisite to contract award.

10. The City should notify the external auditor that will be performing the audit for the City's Comprehensive Annual Financial Report (CAFR) about the possible compliance issue related to GASB 56, Going Concern.

11. The City should notify the external auditor that will be performing the audit for the City's CAFR about the potential compliance issue related to GASB 54, Restricted Funds.

Conclusion:

The inspection of the ART was limited to six areas of focus, to include funding, quality, Buy America Act, Americans with Disabilities Act, and procurement integrity. There were other issues that were not included but are of concern, to include the genesis of the establishment of a requirement for the ART project. This may be a subject of a future review. Additionally, some citizens have expressed concern regarding the lack of an Environmental Impact Study. The City requested an exemption from this requirement from the FTA, which was granted. There was a subsequent lawsuit on this issue which was lost at both the US District Court for New Mexico and at the Tenth Circuit Court of Appeals. While this is also an important issue, at this time for several reasons to include resource constraints, this matter was not included in the scope.

It is important to understand that an inspection is less than both an audit and an investigation in purpose and in the depth of any single issue. The inspection examined the processes, policies, legislation and rules that applied to the ART project. The inspection was proactive in nature and not due to any allegations that were made. While this inspection didn't identify instances of fraud, it is important to note that it doesn't mean fraud did not occur. The inspection did identify several problems that offer opportunities to improve and could be vulnerabilities for fraudulent behavior. City leaders should consider the problems identified and recommendations made to develop a more efficient and stronger procurement process that will help prevent and deter fraud, while also ensuring more quality and confidence in the products and services that the taxpayer funds. This is essential to protecting the public's trust.